

**EIGHTY-SEVENTH GENERAL ASSEMBLY
2018 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

February 28, 2018

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
<u>SF 2148</u>	<u>S-5044</u>	Lost	TONY BISIGNANO
<u>SF 2148</u>	<u>S-5045</u>	Lost	TONY BISIGNANO
<u>SF 2305</u>	<u>S-5047</u>	Adopted	JAKE CHAPMAN
<u>SF 2305</u>	<u>S-5052</u>	Lost	NATE BOULTON
<u>SF 2305</u>	<u>S-5053</u>	Lost	NATE BOULTON
<u>SF 2305</u>	<u>S-5054</u>	Lost	NATE BOULTON, et al
<u>SF 2305</u>	<u>S-5055</u>	Withdrawn	NATE BOULTON, et al
<u>SF 2305</u>	<u>S-5056</u>	Lost	NATE BOULTON
<u>SF 2305</u>	<u>S-5057</u>	Lost	NATE BOULTON
<u>SF 2305</u>	<u>S-5058</u>	Ruled Out of Order	NATE BOULTON, et al
<u>SF 2305</u>	<u>S-5059</u>	Lost	NATE BOULTON, et al
<u>SF 2305</u>	<u>S-5062</u>	Lost	NATE BOULTON, et al
<u>SF 2305</u>	<u>S-5063</u>	Lost	NATE BOULTON
<u>SF 2341</u>	<u>S-5042</u>	Filed	HERMAN C. QUIRMBACH
<u>SF 2341</u>	<u>S-5046</u>	Deferred	TOD R. BOWMAN, et al
<u>SF 2341</u>	<u>S-5048</u>	Lost	DAVID JOHNSON
<u>SF 2341</u>	<u>S-5049</u>	Deferred	ROBERT M. HOGG

SF 2341	S-5050	Filed	ROBERT M. HOGG
SF 2341	S-5061	Deferred	JERRY BEHN
SF 2373	S-5064	Filed	JULIAN GARRETT
SF 2375	S-5043	Adopted	KEVIN KINNEY
SF 2382	S-5051	Filed	DAN DAWSON
SF 2382	S-5060	Filed	KEVIN KINNEY
SF 2382	S-5065	Filed	ROBERT M. HOGG

Fiscal Notes

[SF 2353](#) — [Employment Services, Workforce Development Department](#)
(LSB5281SV)

[SF 2382](#) — [Criminal Justice Reform - Omnibus](#) (LSB5257SV)

[SF 2383](#) — [Tax System Modification](#) (LSB5452SV)

S-5044

1 Amend Senate File 2148 as follows:

2 1. Page 1, line 2, after <prohibited> by inserting <—
3 exception>

4 2. Page 1, by striking lines 3 through 12 and inserting:

5 <1. Unless otherwise provided in this section, the state or
6 a political subdivision of the state shall not place or cause
7 to be placed on or adjacent to a highway, or maintain or employ
8 the use of, any automated or remote system for traffic law
9 enforcement.

10 2. a. The state or a political subdivision of the state
11 may place, cause to be placed, maintain, and employ the use
12 of an automated or remote system for traffic law enforcement
13 on or adjacent to a highway under the state's or political
14 subdivision's jurisdiction, as applicable, which has a speed
15 limit of twenty-five miles per hour and which is located in a
16 school district, as defined in section 321.1, subsection 70.

17 b. An automated or remote system for traffic law enforcement
18 designed to work in conjunction with a speed measuring device
19 shall be used only to issue citations to motor vehicles
20 traveling at eleven miles per hour or more over the legal speed
21 limit.

22 c. Temporary or permanent signs advising drivers that an
23 automated or remote system for traffic law enforcement is in
24 place shall be posted in clear and present view of passing
25 drivers in advance of the location where the system is in
26 use. The signage shall conform to the manual on uniform
27 traffic-control devices as adopted by the department.

28 d. The state or a political subdivision of the state shall
29 not issue a citation resulting from the use of an automated or
30 remote system for traffic law enforcement until an active peace
31 officer of the state or political subdivision, as applicable,
32 has reviewed the citation and any relevant recorded images
33 produced by the system.

34 e. The amount of the fine or civil penalty imposed by a
35 citation resulting from the use of an automated or remote

1 system for traffic law enforcement shall equal the amount of
2 the fine for a scheduled violation under section 805.8A for the
3 same or a similar violation of this chapter.

4 *f.* The state or political subdivision using an automated
5 or remote system for traffic law enforcement shall designate a
6 process by which a person may appeal a citation issued through
7 the use of the system, which at a minimum shall provide for all
8 of the following:

9 (1) An appeal to an impartial body created by the state
10 or political subdivision, as applicable, to review citations
11 issued through the use of the system.

12 (2) Following a decision from the impartial body that is
13 adverse to the person, an appeal to the district court, sitting
14 in small claims, of the county in which the violation occurred.

15 3. For the purposes of this section, "*automated or remote*
16 *system for traffic law enforcement*" means a camera or other
17 optical device designed to work in conjunction with an official
18 traffic control signal or speed measuring device to identify
19 motor vehicles operating in violation of traffic laws, the use
20 of which results in the issuance of citations sent through the
21 mail or by electronic means.>

22 3. Page 1, line 13, after <OF> by inserting <CERTAIN>

23 4. Page 1, line 16, after <enforcement> by inserting <that
24 does not comply with section 321.492C as enacted in this Act>

25 5. Page 1, line 19, after <enforcement> by inserting <that
26 do not comply with section 321.492C as enacted in this Act>

27 6. Page 1, line 26, after <of> by inserting <certain>

28 7. Title page, line 1, after <of> by inserting <certain>

29 8. Title page, line 2, after <of> by inserting <certain>

By TONY BISIGNANO

S-5045

1 Amend Senate File 2148 as follows:

2 1. Page 1, line 2, after <prohibited> by inserting <—
3 exception>

4 2. Page 1, by striking lines 3 through 12 and inserting:

5 <1. Unless otherwise provided in this section, the state or
6 a political subdivision of the state shall not place or cause
7 to be placed on or adjacent to a highway, or maintain or employ
8 the use of, any automated or remote system for traffic law
9 enforcement.

10 2. a. The state or a political subdivision of the state
11 may place, cause to be placed, maintain, and employ the use
12 of an automated or remote system for traffic law enforcement
13 on or adjacent to a highway under the state's or political
14 subdivision's jurisdiction, as applicable, at a location which
15 is in a road work zone.

16 b. An automated or remote system for traffic law enforcement
17 designed to work in conjunction with a speed measuring device
18 shall be used only to issue citations to motor vehicles
19 traveling at eleven miles per hour or more over the legal speed
20 limit.

21 c. Temporary or permanent signs advising drivers that an
22 automated or remote system for traffic law enforcement is in
23 place shall be posted in clear and present view of passing
24 drivers in advance of the location where the system is in
25 use. The signage shall conform to the manual on uniform
26 traffic-control devices as adopted by the department.

27 d. The state or a political subdivision of the state shall
28 not issue a citation resulting from the use of an automated or
29 remote system for traffic law enforcement until an active peace
30 officer of the state or political subdivision, as applicable,
31 has reviewed the citation and any relevant recorded images
32 produced by the system.

33 e. The amount of the fine or civil penalty imposed by a
34 citation resulting from the use of an automated or remote
35 system for traffic law enforcement shall equal the amount of

1 the fine for a scheduled violation under section 805.8A for the
2 same or a similar violation of this chapter. The amount of
3 the fine or civil penalty collected in excess of the amount of
4 a scheduled violation under section 805.8A, subsection 5, 7,
5 or 8, up to the amount of a scheduled violation under section
6 805.8A, subsection 14, paragraph "i", shall be retained by the
7 state or political subdivision, as applicable, and shall not
8 be retained by any private entity operating the automated or
9 remote system for traffic law enforcement on behalf of the
10 state or political subdivision.

11 f. The state or political subdivision using an automated
12 or remote system for traffic law enforcement shall designate a
13 process by which a person may appeal a citation issued through
14 the use of the system, which at a minimum shall provide for all
15 of the following:

16 (1) An appeal to an impartial body created by the state
17 or political subdivision, as applicable, to review citations
18 issued through the use of the system.

19 (2) Following a decision from the impartial body that is
20 adverse to the person, an appeal to the district court, sitting
21 in small claims, of the county in which the violation occurred.

22 3. For the purposes of this section, "*automated or remote*
23 *system for traffic law enforcement*" means a camera or other
24 optical device designed to work in conjunction with an official
25 traffic control signal or speed measuring device to identify
26 motor vehicles operating in violation of traffic laws, the use
27 of which results in the issuance of citations sent through the
28 mail or by electronic means.>

29 3. Page 1, line 13, after <OF> by inserting <CERTAIN>

30 4. Page 1, line 16, after <enforcement> by inserting <that
31 does not comply with section 321.492C as enacted in this Act>

32 5. Page 1, line 19, after <enforcement> by inserting <that
33 do not comply with section 321.492C as enacted in this Act>

34 6. Page 1, line 26, after <of> by inserting <certain>

35 7. Title page, line 1, after <of> by inserting <certain>

S-5045 (Continued)

1 8. Title page, line 2, after <of> by inserting <certain>

By TONY BISIGNANO

S-5045 FILED FEBRUARY 27, 2018

LOST

S-5047

1 Amend Senate File 2305 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. 507F.1 Definitions.

5 As used in this chapter, unless the context otherwise
6 requires, "*workers' compensation insurer*" includes any insurer
7 as defined in section 507A.3 that issues a policy of workers'
8 compensation liability insurance and any group or self-insured
9 plan as described in section 87.4.

10 Sec. 2. NEW SECTION. 507F.2 Purpose of workers'
11 compensation fraud unit.

12 A workers' compensation fraud unit is created within the
13 insurance fraud bureau within the insurance division. Upon a
14 reasonable determination by the workers' compensation fraud
15 unit, by its own inquiries or as a result of complaints filed
16 with the insurance fraud bureau or the workers' compensation
17 fraud unit, that a person has engaged in, is engaging in,
18 or may be engaging in an act or practice that violates this
19 chapter, the workers' compensation fraud unit may administer
20 oaths and affirmations, issue and serve subpoenas ordering the
21 attendance of witnesses, collect evidence related to such act
22 or practice, commence a suit, and prosecute a violation of this
23 chapter.

24 Sec. 3. NEW SECTION. 507F.3 Workers' compensation
25 fraudulent practice — penalties.

26 1. A person commits the offense of workers' compensation
27 fraudulent practice if the person, with the intent to defraud
28 a workers' compensation insurer does any act that constitutes
29 a violation of section 507E.3.

30 2. A person who commits an offense under this section that
31 results in a loss to a workers' compensation insurer of ten
32 thousand dollars or less is, upon conviction, guilty of a class
33 "D" felony.

34 3. A person who commits an offense under this section that
35 results in a loss to a workers' compensation insurer of more

1 than ten thousand dollars is, upon conviction, guilty of a
2 class "C" felony.

3 4. Fifty percent of the criminal penalty collected under
4 this section shall be deposited in the workers' compensation
5 fraud penalty fund created in section 507F.5. The remaining
6 fifty percent of the criminal penalty collected under this
7 section shall be deposited pursuant to section 602.8108.

8 Sec. 4. NEW SECTION. 507F.4 Restitution.

9 In addition to the criminal penalties established in this
10 chapter, the court shall order a person who commits an offense
11 under this chapter to pay restitution to persons aggrieved by
12 the violation. Restitution shall be ordered in addition to a
13 fine and the possibility of imprisonment, but not in lieu of a
14 fine and the possibility of imprisonment.

15 Sec. 5. NEW SECTION. 507F.5 Fund created.

16 A workers' compensation fraud penalty fund is created in
17 the state treasury as a separate fund under the control of
18 the commissioner of insurance for purposes of this chapter.
19 Notwithstanding section 8.33, any balance in the fund on June
20 30 of each fiscal year shall not revert to the general fund of
21 the state, but shall be available for purposes of this chapter
22 in subsequent fiscal years. The commissioner of insurance may
23 request additional full time equivalent positions as needed and
24 the request shall be granted so long as sufficient funds are
25 within the workers' compensation fraud penalty fund.

26 Sec. 6. NEW SECTION. 507F.6 Examination of information
27 outside the state.

28 As a unit within the insurance fraud bureau, the workers'
29 compensation fraud unit, pursuant to section 507E.4, may obtain
30 and examine any information that is related to enforcement of
31 this chapter in possession of a person located outside the
32 state.

33 Sec. 7. NEW SECTION. 507F.7 Confidentiality.

34 As a unit within the insurance fraud bureau, all of the
35 provisions of section 507E.5 shall apply to the workers'

1 compensation fraud unit.

2 Sec. 8. NEW SECTION. **507F.8 Immunity from liability.**

3 A person is immune from civil liability for acts under this
4 chapter if the person meets the requirements set forth in
5 section 507E.7.

6 Sec. 9. NEW SECTION. **507F.9 Election of prosecution.**

7 If a person commits an offense under this chapter, the
8 prosecuting attorney may elect to proceed under this chapter
9 or any other law of this state.

10 Sec. 10. NEW SECTION. **507F.10 Prosecuting attorney status.**

11 1. The workers' compensation fraud unit shall employ at
12 least one full-time prosecuting attorney. The prosecuting
13 attorney, having specialized knowledge and training, shall
14 in all counties in this state prosecute all criminal actions
15 which may be brought under this chapter in which the workers'
16 compensation fraud unit may be interested, when, in the
17 prosecuting attorney's judgment, the interest of the unit
18 requires such action.

19 2. The prosecuting attorney may request a county attorney
20 to assist with or handle the prosecution of a criminal action
21 which may be brought under this chapter.

22 3. The prosecuting attorney shall report to the
23 commissioner of insurance.

24 Sec. 11. NEW SECTION. **507F.11 Law enforcement officer**
25 **status.**

26 As a unit within the insurance fraud bureau, all of the
27 provisions of section 507E.8 shall apply to the workers'
28 compensation fraud unit.

29 Sec. 12. NEW SECTION. **507F.12 Suspension of benefits.**

30 If a person is currently receiving or has a pending
31 application for workers' compensation benefits under chapter
32 85, 85A, or 85B and the workers' compensation fraud unit makes
33 a determination to file charges in district court alleging a
34 violation of this chapter by a person receiving benefits under
35 chapter 85, 85A, or 85B, the workers' compensation fraud unit

1 shall notify the workers' compensation commissioner, who shall
2 suspend benefits or suspend any pending application.

3 A person convicted of a workers' compensation fraudulent
4 practice shall be prohibited from receiving benefits under
5 chapters 85, 85A, and 85B for the particular claim or injury
6 giving rise to the criminal action. If the person is acquitted
7 or the charges are dismissed, the workers' compensation fraud
8 unit shall notify the workers' compensation commissioner of
9 such action and the commissioner shall resume the payment of
10 any benefits previously suspended or resume any suspended
11 application. A person whose benefits have been suspended and
12 the payment of benefits resumed has the option to receive
13 a back payment in a lump sum upon resumption of payment of
14 benefits.

15 Sec. 13. NEW SECTION. 507F.13 Rulemaking authority.

16 The commissioner of insurance may adopt rules pursuant to
17 chapter 17A to administer this chapter.

18 Sec. 14. Section 85.27, subsections 3 and 4, Code 2018, are
19 amended to read as follows:

20 3. A medical service provided under this chapter or chapter
21 85A or 85B shall not be billed at a rate higher than a health
22 service provider's standard retail rate for the medical
23 service. A health service provider who bills and receives
24 payment in excess of the health service provider's standard
25 rate for a medical service provided to treat a workers'
26 compensation injury shall reimburse the employer or insurance
27 carrier which paid for the medical service for the excess
28 payments received by the health service provider.

29 Notwithstanding section 85.26, subsection 4, charges believed
30 to be excessive or unnecessary may be referred by the
31 employer, insurance carrier, or health service provider to the
32 workers' compensation commissioner for determination, and the
33 commissioner may utilize the procedures provided in sections
34 86.38 and 86.39, or set by rule, and conduct such inquiry as
35 the commissioner deems necessary. Any health service provider

1 charges not in dispute shall be paid directly to the health
2 service provider prior to utilization of procedures provided
3 in sections 86.38 and 86.39 or set by rule. A health service
4 provider rendering treatment to an employee whose injury is
5 compensable under this section agrees to be bound by such
6 charges as allowed by the workers' compensation commissioner
7 and shall not recover in law or equity any amount in excess of
8 charges set by the commissioner. When a dispute under this
9 chapter, chapter 85A, or chapter 85B regarding reasonableness
10 of a fee for medical services arises between a health service
11 provider and an employer or insurance carrier, the health
12 service provider, employer, or insurance carrier shall not seek
13 payment from the injured employee. A health service provider
14 shall not seek payment for fees in dispute from the insurance
15 carrier or employer until the commissioner finds, pursuant to
16 informal dispute resolution procedures established by rule by
17 the commissioner, that the disputed amount is reasonable. This
18 section does not affect the responsibility of an insurance
19 carrier or an employer to pay amounts not in dispute or a
20 health service provider's right to receive payment from an
21 employee's nonoccupational plan as provided in section 85.38,
22 subsection 2.

23 4. For purposes of this section, the employer is obliged to
24 furnish reasonable services and supplies to treat an injured
25 employee, and has the right to choose the care. The employer
26 retains the right to choose the employee's care for all
27 services throughout the course of treatment. If the employer
28 chooses the care, the employer shall hold the employee harmless
29 for the cost of care until the employer notifies the employee
30 that the employer is no longer authorizing all or any part of
31 the care and the reason for the change in authorization. An
32 employer is not liable for the cost of care that the employer
33 arranges in response to a sudden emergency if the employee's
34 condition, for which care was arranged, is not related to
35 the employment. The treatment must be offered promptly

1 and be reasonably suited to treat the injury without undue
2 inconvenience to the employee. If the employee has reason to
3 be dissatisfied with the care offered, the employee should
4 communicate the basis of such dissatisfaction to the employer,
5 in writing if requested, following which the employer and the
6 employee may agree to alternate care reasonably suited to
7 treat the injury. If the employer and employee cannot agree
8 on such alternate care, the commissioner may, upon application
9 and reasonable proofs of the necessity therefor, allow and
10 order other care. In an emergency, the employee may choose
11 the employee's care at the employer's expense, provided the
12 employer or the employer's agent cannot be reached immediately.
13 An application made under this subsection shall be considered
14 an original proceeding for purposes of commencement and
15 contested case proceedings under section 85.26. The hearing
16 shall be conducted pursuant to chapter 17A. Before a hearing
17 is scheduled, the parties may choose a telephone hearing or
18 an in-person hearing. A request for an in-person hearing
19 shall be approved unless the in-person hearing would be
20 impractical because of the distance between the parties to the
21 hearing. The workers' compensation commissioner shall issue a
22 decision within ten working days of receipt of an application
23 for alternate care made pursuant to a telephone hearing or
24 within fourteen working days of receipt of an application for
25 alternate care made pursuant to an in-person hearing. The
26 employer shall notify an injured employee of the employee's
27 ability to contest the employer's choice of care pursuant to
28 this subsection.

29 Sec. 15. NEW SECTION. 85.37A **Suspension of benefits for**
30 **workers' compensation fraud.**

31 Section 507F.12 requires the workers' compensation
32 commissioner to suspend a person's benefits if the workers'
33 compensation fraud unit makes a determination to file charges
34 in district court alleging the person has violated chapter
35 507F.

1 Sec. 16. NEW SECTION. 86.39A Criminal penalty for workers'
2 compensation fraud.

3 Chapter 507F sets forth criminal penalties for committing a
4 workers' compensation fraudulent practice.

5 Sec. 17. Section 507E.6, Code 2018, is amended to read as
6 follows:

7 **507E.6 Duties of insurer and fraud bureau.**

8 1. An insurer which believes that a claim or application
9 for insurance coverage is being made which is a violation of
10 section 507E.3 or believes that a violation of section 507E.3A
11 has occurred, shall provide, within sixty days of ~~the receipt~~
12 ~~of such claim or application becoming aware of a possible~~
13 violation, written notification to the bureau of the ~~claim or~~
14 ~~application suspected violation~~ on a form prescribed by the
15 bureau, ~~including any additional information requested by the~~
16 ~~bureau related to the claim or application or the party making~~
17 ~~the claim or application.~~

18 2. The fraud bureau shall review each notification and
19 determine whether further investigation is warranted.

20 3. If the bureau determines that further investigation
21 is warranted, the bureau shall conduct an independent
22 investigation of the facts surrounding the ~~claim or application~~
23 ~~for insurance coverage notification~~ to determine the extent,
24 if any, to which fraud occurred ~~in the submission of the claim~~
25 ~~or application.~~ If the notification pertains to workers'
26 compensation insurance fraud, the bureau shall deliver the
27 notice to the workers' compensation fraud unit, which shall
28 determine if an investigation and prosecution are warranted.
29 Upon formal request made by the bureau, the insurer shall
30 provide all additional information related to the notification
31 within ten business days or a time period specifically
32 identified by the bureau.

33 4. The bureau shall report any alleged violation of law
34 disclosed by the investigation to the appropriate licensing
35 agency or prosecuting authority having jurisdiction with

1 respect to such violation.

2 Sec. 18. Section 507E.8, Code 2018, is amended to read as
3 follows:

4 **507E.8 Law enforcement officer status.**

5 1. Bureau investigators shall have the power and status
6 of law enforcement officers who by the nature of their duties
7 may be required to perform the duties of a peace officer when
8 making arrests for criminal violations established as a result
9 of their investigations pursuant to this chapter or chapter
10 507F.

11 2. The general laws applicable to arrests by law enforcement
12 officers of the state also apply to bureau investigators.
13 Bureau investigators shall have the power to execute arrest
14 warrants and search warrants for the same criminal violations,
15 serve subpoenas issued for the examination, investigation, and
16 trial of all offenses identified through their investigations,
17 and arrest upon probable cause without warrant a person found
18 in the act of committing a violation of the provisions of this
19 chapter or chapter 507F.

20 Sec. 19. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment.

22 Sec. 20. APPLICABILITY. This Act applies on and after the
23 effective date of this Act to acts of workers' compensation
24 fraudulent practices or prohibited health service providers'
25 practices committed on or after the effective date of this
26 Act.>

27 2. Title page, line 3, by striking <appropriations and>

By JAKE CHAPMAN

S-5047 FILED FEBRUARY 27, 2018

ADOPTED

S-5052

1 Amend the amendment, S-5047, to Senate File 2305 as follows:
2 1. Page 1, line 29, after <507E.3> by inserting <or
3 requires any current or former employee to submit the cost
4 of surgical, medical, osteopathic, chiropractic, podiatric,
5 physical rehabilitation, nursing, ambulance, or hospital
6 services or supplies to an individual or group health insurance
7 policy, even though the employer admits liability for the
8 injury>

By NATE BOULTON

S-5052 FILED FEBRUARY 27, 2018
LOST

S-5053

1 Amend the amendment, S-5047, to Senate File 2305 as follows:
2 1. Page 1, after line 29 by inserting:
3 <1A. It shall not be considered a workers' compensation
4 fraudulent practice for a person to request a replacement
5 prosthetic if the prosthetic is needed as a result of
6 a compensable injury. A person shall be entitled to a
7 replacement prosthetic if the prosthetic is needed as a result
8 of a compensable injury.>
9 2. By renumbering, redesignating, and correcting internal
10 references as necessary.

By NATE BOULTON

S-5053 FILED FEBRUARY 27, 2018

LOST

S-5054

1 Amend the amendment, S-5047, to Senate File 2305 as follows:

2 1. Page 2, after line 7 by inserting:

3 <Sec. _____. **NEW SECTION. 507F.3A Failure to obtain workers'**
4 **compensation insurance.**

5 An employer subject to chapters 85, 85A, 85B, 86, and 87
6 shall not engage in business without first obtaining insurance
7 covering compensation benefits or obtaining relief from
8 insurance as provided in chapter 87. A person who willfully
9 and knowingly violates this section is guilty of a class "D"
10 felony.>

11 2. Page 7, after line 4 by inserting:

12 <Sec. _____. Section 87.15, Code 2018, is amended to read as
13 follows:

14 **87.15 Injunctions.**

15 If a violation of section ~~87.14A~~ 507F.3A has been committed
16 or there is reason to believe a violation of section ~~87.14A~~
17 507F.3A is about to be committed, ~~the attorney general or~~
18 ~~the county attorney from the county in which a violation~~
19 ~~has occurred or is about to occur shall, or any person may,~~
20 workers' compensation fraud unit prosecuting attorney may bring
21 an action to enjoin such person from committing the violation
22 and the court or judge before whom the action is brought shall,
23 if the facts warrant, issue a temporary or permanent writ of
24 injunction without bond.

25 Sec. _____. Section 87.19, Code 2018, is amended to read as
26 follows:

27 **87.19 Failure to comply — proceedings.**

28 Upon the receipt of information by the workers' compensation
29 commissioner of any employer failing to comply with section
30 ~~87.14A~~ 507F.3A, the commissioner shall at once notify such
31 employer by certified mail that unless such employer comply
32 with the requirements of law, legal proceedings will be
33 instituted to enforce such compliance.

34 Unless such employer comply with the provisions of the
35 law within fifteen days after the giving of such notice, the

S-5054 (Continued)

1 workers' compensation commissioner shall report such failure to
2 the ~~attorney general~~ workers' compensation fraud unit, whose
3 duty it shall be to bring an action in a court of equity to
4 enjoin the further violation. Upon decree being entered for
5 a temporary or permanent injunction, a violation shall be a
6 contempt of court and punished as provided for contempt of
7 court in other cases.>

8 3. Page 8, after line 19 by inserting:

9 <Sec. _____. REPEAL. Section 87.14A, Code 2018, is repealed.>

10 4. By renumbering, redesignating, and correcting internal
11 references as necessary.

By NATE BOULTON

WILLIAM A. DOTZLER, JR.

S-5054 FILED FEBRUARY 27, 2018

LOST

S-5055

- 1 Amend the amendment, S-5047, to Senate File 2305 as follows:
- 2 1. Page 3, line 26, before <As> by inserting <1.>
- 3 2. Page 3, after line 28 by inserting:
- 4 <2. All law enforcement officers are covered under the merit
- 5 system provisions of chapter 8A, subchapter IV.>

By NATE BOULTON
WILLIAM A. DOTZLER, JR.

S-5055 FILED FEBRUARY 27, 2018
WITHDRAWN

S-5056

- 1 Amend the amendment, S-5047, to Senate File 2305 as follows:
- 2 1. Page 3, after line 28 by inserting:
- 3 <Sec. _____. NEW SECTION. 507F.11A Length of investigation.
- 4 The workers' compensation fraud unit shall complete all
- 5 workers' compensation fraud investigations within ninety
- 6 days of receiving notification from a workers' compensation
- 7 insurer of possible fraudulent activity pursuant to section
- 8 507E.6. Completion of the investigation is indicated by a
- 9 determination not to file charges or by the filing of charges
- 10 in district court alleging a violation of this chapter. Any
- 11 investigation that is not completed within ninety days shall
- 12 be deemed closed. Charges shall not be filed in district
- 13 court in a closed investigation. An investigation may only be
- 14 reopened if there is an unanticipated and substantial change
- 15 in circumstances that could not be foreseen at the time of the
- 16 original closure.>
- 17 2. By renumbering as necessary.

By NATE BOULTON

S-5056 FILED FEBRUARY 27, 2018

LOST

S-5057

- 1 Amend the amendment, S-5047, to Senate File 2305 as follows:
- 2 1. Page 6, line 9, by striking <reasonable proofs of the
- 3 necessity therefor> and inserting <~~reasonable proofs of the~~
- 4 ~~necessity therefor~~ unless the care requested is unreasonable>

By NATE BOULTON

S-5057 FILED FEBRUARY 27, 2018

LOST

S-5058

1 Amend the amendment, S-5047, to Senate File 2305 as follows:

2 1. Page 7, after line 4 by inserting:

3 <Sec. _____. Section 88.14, subsection 12, Code 2018, is
4 amended to read as follows:

5 12. *Collection of penalties.*

6 a. Civil penalties owed under this chapter shall be paid
7 to the commissioner for deposit with the treasurer of state
8 and shall accrue to the state and may be recovered in a civil
9 action in the name of the state brought in the district court
10 of the county where the violation is alleged to have occurred
11 or where the employer has its principal office unless the
12 circumstances described in paragraph "b" are present.

13 b. If an occupational safety and health violation involves
14 a workplace injury, civil penalties will be assessed and
15 distributed as follows:

16 (1) Fifty percent of the civil penalties collected under
17 this section shall be deposited in the fund created in section
18 507F.5.

19 (2) The remaining fifty percent of the civil penalties
20 collected shall be deposited in the fund created in section
21 88.14A.

22 Sec. _____. NEW SECTION. 88.14A Occupational safety and
23 health administration workplace injury fund.

24 An occupational safety and health administration workplace
25 injury fund is created in the state treasury as a separate fund
26 under the control of the division of labor services of the
27 department of workforce development. Moneys shall be deposited
28 into the fund as provided in section 88.14, subsection 12,
29 paragraph "b", and are appropriated to the division of labor
30 services of the department of workforce development for
31 occupational safety and health administration. Notwithstanding
32 section 8.33, any balance in the fund on June 30 of each fiscal
33 year shall not revert to the general fund of the state, but
34 shall be available for purposes of this chapter in subsequent
35 fiscal years.>

S-5058 (Continued)

1 2. By renumbering as necessary.

By NATE BOULTON
 WILLIAM A. DOTZLER, JR.

[S-5058](#) FILED FEBRUARY 27, 2018

RULED OUT OF ORDER

S-5059

- 1 Amend the amendment, S-5047, to Senate File 2305 as follows:
- 2 1. Page 7, after line 32 by inserting:
- 3 <3A. If the bureau determines that an insurer or an employer
- 4 provided a written notification of a suspected violation
- 5 pursuant to subsection 1 recklessly, maliciously, or with
- 6 intent to harass the employee, the workers' compensation
- 7 commissioner shall award benefits in addition to those payable
- 8 under chapter 85, 85A, 85B, or 86, up to one hundred percent of
- 9 the amount of benefits that were alleged to be fraudulent.>
- 10 2. By renumbering, redesignating, and correcting internal
- 11 references as necessary.

By NATE BOULTON
WILLIAM A. DOTZLER, JR.

S-5059 FILED FEBRUARY 27, 2018

LOST

S-5062

- 1 Amend the amendment, S-5047, to Senate File 2305 as follows:
- 2 1. Page 3, line 26, before <As> by inserting <1.>
- 3 2. Page 3, after line 28 by inserting:
- 4 <2. All law enforcement officers in the workers'
- 5 compensation fraud unit are covered under the merit system
- 6 provisions of chapter 8A, subchapter IV.>

By NATE BOULTON
WILLIAM A. DOTZLER, JR.

S-5062 FILED FEBRUARY 27, 2018

LOST

S-5063

1 Amend the amendment, S-5047, to Senate File 2305 as follows:

2 1. Page 5, by striking lines 25 through 28 and inserting
3 <employee, ~~and but the employee~~ has the right to choose the
4 care. ~~If the employer chooses the care, the~~ The employer shall
5 hold the employee harmless>

6 2. Page 6, by striking line 2 and inserting <inconvenience
7 to the ~~employee~~ employer. If the ~~employee~~ employer has reason
8 to>

9 3. Page 6, line 3, by striking <employee> and inserting
10 <~~employee~~ employer>

11 4. Page 6, line 4, by striking <employer> and inserting
12 <~~employer~~ employee>

13 5. Page 6, line 5, by striking <employer> and inserting
14 <~~employer~~ employee>

15 6. Page 6, line 6, by striking <employee> and inserting
16 <~~employee~~ employer>

17 7. Page 6, by striking lines 25 through 28 and inserting
18 <alternate care made pursuant to an in-person hearing. ~~The~~
19 ~~employer shall notify an injured employee of the employee's~~
20 ~~ability to contest the employer's choice of care pursuant to~~
21 ~~this subsection~~>

By NATE BOULTON

S-5063 FILED FEBRUARY 27, 2018

LOST

S-5042

1 Amend Senate File 2341 as follows:

2 1. Page 2, line 17, by striking <1, 2019> and inserting
3 <1 of the school year following the first year in which every
4 member of the general assembly is administered and passes
5 the same civics examination under the same conditions and in
6 the same manner as provided in section 280.9A, subsection 1,
7 paragraph "b" of this Act>

By HERMAN C. QUIRMBACH

S-5042 FILED FEBRUARY 27, 2018

S-5046

1 Amend Senate File 2341 as follows:

2 1. Page 2, after line 15 by inserting:

3 <c. Beginning with the 2019-2020 school year, in conjunction
4 with the social studies curriculum, a project-based assessment
5 in civics. Each school district and accredited nonpublic
6 school shall develop and design the assessments administered
7 under this paragraph to measure the civics learning objectives
8 contained in the social studies curriculum and to demonstrate
9 understanding and relevance of public policy, the structure of
10 federal, state, and local governments, and the Constitution of
11 the State of Iowa and the Constitution of the United States.>

12 2. Title page, line 1, after <of> by inserting <a
13 project-based assessment in civics and>

By TOD R. BOWMAN

NATE BOULTON

S-5046 FILED FEBRUARY 27, 2018

DEFERRED

S-5048

1 Amend Senate File 2341 as follows:

2 1. Page 1, line 24, after <in> by inserting <Iowa history
3 and>

4 2. Page 1, line 25, after <in> by inserting <the histories
5 of the Constitution of the State of Iowa and the Constitution
6 of the United States, the history of immigration to Iowa and
7 the United States, the history of people native to Iowa and the
8 United States,>

By DAVID JOHNSON

S-5048 FILED FEBRUARY 27, 2018

LOST

S-5049

1 Amend Senate File 2341 as follows:

2 1. Page 1, after line 16 by inserting:

3 <Sec. _____. Section 259A.5, subsection 2, Code 2018, is
4 amended to read as follows:

5 2. The state board of education shall adopt rules under
6 chapter 17A to carry out this chapter. Any rules adopted
7 relating to demonstrations of competence for purposes of this
8 chapter shall require such demonstrations to be equivalent
9 to or of greater rigor than those required for high school
10 graduation, and such demonstrations shall include but
11 are not limited to a test battery, credit-based measures,
12 and attainment of other academic credentials. The rules
13 shall require a high school equivalency program or testing
14 center approved by the department of education to waive
15 application, test, and course fees for a student who fails
16 to pass the civics examination administered under section
17 280.9A, subsection 1, paragraph "b", but who otherwise met the
18 graduation requirements of the school district or accredited
19 nonpublic school of enrollment.>

20 2. By renumbering as necessary.

By ROBERT M. HOGG

S-5049 FILED FEBRUARY 27, 2018

DEFERRED

S-5050

1 Amend Senate File 2341 as follows:

2 1. Page 2, line 15, after <"b"> by inserting <A student
3 who fails to pass the civics examination administered under
4 this paragraph "b" shall not be denied enlistment in the Iowa
5 national guard solely because of the student's failure to pass
6 the civics examination.>

By ROBERT M. HOGG

S-5050 FILED FEBRUARY 27, 2018

S-5061

1 Amend Senate File 2341 as follows:

2 1. Page 1, by striking lines 30 through 33 and inserting:

3 <b. A multiple-choice civics examination that consists
4 of all of the questions used in the latest available civics
5 examination administered by the United States citizenship and
6 immigration services. The proctored examination shall>

By JERRY BEHN

S-5061 FILED FEBRUARY 27, 2018

DEFERRED

S-5064

1 Amend Senate File 2373 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 726.6, Code 2018, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 1A. A person who knowingly takes custody
7 or control over a child or minor, or who knowingly has
8 unsupervised access to a child or a minor while the person is
9 required to register as a sex offender under chapter 692A,
10 commits child endangerment. However, this subsection does not
11 apply to a person who is a parent or guardian of a child or a
12 minor who is required to register as a sex offender, or to a
13 person who is married to and living with a person required to
14 register as a sex offender.

15 Sec. 2. Section 726.6, subsection 3, unnumbered paragraph
16 1, Code 2018, is amended to read as follows:

17 For the purposes of subsection 1 or 1A, ~~"person having~~
18 ~~control~~ "control over a child or a minor" means any of the
19 following:>

20 2. Title page, by striking lines 2 through 4 and inserting
21 <by prohibiting a sex offender access to a child or certain
22 minors,>

By JULIAN GARRETT

S-5064 FILED FEBRUARY 27, 2018

S-5043

1 Amend Senate File 2375 as follows:

2 1. Page 1, after line 12 by inserting:

3 <Sec. _____. Section 802.2A, Code 2018, is amended to read as
4 follows:

5 **802.2A Incest — sexual exploitation by a counselor,**
6 **therapist, or school employee.**

7 1. An information or indictment for incest under section
8 726.2 committed on or with a person who is under the age of
9 eighteen shall be found ~~within ten years after the person upon~~
10 ~~whom the offense is committed attains eighteen years of age at~~
11 any time after its commission. An information or indictment
12 for any other incest shall be found within ten years after its
13 commission.

14 2. An indictment or information for sexual exploitation
15 by a counselor, therapist, or school employee under section
16 709.15 committed on or with a person who is under the age of
17 eighteen shall be found ~~within ten years after the person upon~~
18 ~~whom the offense is committed attains eighteen years of age at~~
19 any time after its commission. An information or indictment
20 for any other sexual exploitation shall be found within ten
21 years of the date the victim was last treated by the counselor
22 or therapist, or within ten years of the date the victim was
23 enrolled in or attended the school.

24 Sec. _____. Section 802.2B, unnumbered paragraph 1, Code
25 2018, is amended to read as follows:

26 An information or indictment for the following offenses
27 committed on or with a person who is under the age of eighteen
28 years shall be found ~~within ten years after the person upon~~
29 ~~whom the offense is committed attains eighteen years of age,~~
30 ~~or if the person against whom the information or indictment~~
31 ~~is sought is identified through the use of a DNA profile, an~~
32 ~~information or indictment shall be found within three years~~
33 ~~from the date the person is identified by the person's DNA~~
34 profile, whichever is later at any time after its commission:>

35 2. Page 1, by striking lines 18 and 19 and inserting <DNA

S-5043 (Continued)

1 profile. If the action involves sexual abuse,~~another sexual~~
2 ~~offense of a person eighteen years of age or older,~~>

3 3. Page 1, lines 21 and 22, by striking <subsection 2,
4 802.2B,> and inserting <~~802.2B,~~ subsection 2,>

5 4. Title page, line 2, by striking <abuse>

By KEVIN KINNEY

[S-5043](#) FILED FEBRUARY 27, 2018

ADOPTED

S-5051

1 Amend Senate File 2382 as follows:

2 1. Page 1, by striking lines 17 through 19 and inserting
3 <record of the conviction and the conviction for a violation
4 of a local ordinance that arose from the same transaction or
5 occurrence be expunged by the clerk of the district court.>

6 2. Page 1, line 31, after <offense> by inserting <in the
7 county where the conviction occurred>

8 3. By striking page 1, line 34, through page 2, line 5, and
9 inserting <have passed since the date of the conviction, the
10 defendant has no pending criminal charges, and all court costs,
11 fees, fines, and restitution>

12 4. Page 2, by striking lines 8 and 9 and inserting:

13 <2. Upon objection by the county attorney to the
14 application, the court shall dismiss the application if any of
15 the following apply:>

16 5. Page 3, after line 9 by inserting:

17 <z. The defendant is the subject of a protective order or a
18 no-contact order.

19 aa. The defendant has been subsequently convicted of or
20 granted a deferred judgment for any criminal offense, other
21 than a simple misdemeanor conviction under chapter 321 or of a
22 similar local ordinance.

23 ab. The defendant has previously been granted two deferred
24 judgments.>

25 6. Page 3, line 10, by striking <allowed to apply for> and
26 inserting <granted>

27 7. By striking page 3, line 34, through page 4, line 19.

28 8. Page 5, line 7, by striking <a.>

29 9. Page 5, by striking lines 14 through 23.

30 10. Page 17, line 8, by striking <information, or
31 indictment> and inserting <information, indictment, or jury
32 instruction>

33 11. Page 18, line 6, after <applicant,> by inserting
34 <applicant's attorney,>

35 12. Page 18, by striking lines 21 through 23 and inserting

1 <paragraph "a", any information provided by an attorney,
2 law enforcement agency, witness, or any person with relevant
3 information to the medical examiner conducting the autopsy.>

4 13. Page 18, line 28, after <cause and> by inserting <cause
5 or>

6 14. Page 19, by striking line 8 and inserting <provided by
7 an attorney, investigative agency, or witness, and any report
8 deemed necessary by the medical examiner to accurately certify
9 the cause and manner of death which are included in the report
10 of the medical examiner>

11 15. Page 19, by striking lines 22 through 26 and inserting:

12 <b. In conducting an investigation or autopsy under this
13 part, including but not limited to developing a clinical
14 history of the decedent and formulating findings and
15 conclusions or forming opinions as to the cause and manner of
16 death, the state medical examiner or county medical examiner
17 may use any information provided or available for review,
18 including but not limited to information or statements by a
19 witness, a suspect, or any other person with information which
20 is provided by or obtained in the course of a law enforcement
21 investigation. Such information or statements which the
22 medical examiner has used in making the findings, conclusions,
23 and opinions may also be included in the report of the medical
24 examiner. A court shall not exclude the medical examiner's
25 report or opinion as to the cause or manner of death on the
26 basis that the medical examiner relied on information from
27 other persons or from a law enforcement agency in forming that
28 report or opinion. Admission of such a report or opinion shall
29 not constitute reversible error.>

30 16. Page 19, by striking lines 27 through 31.

31 17. Page 22, after line 1 by inserting:

32 <Sec. _____. Section 321J.20, subsection 10, Code 2018, is
33 amended to read as follows:

34 10. Notwithstanding any other provision of law to the
35 contrary, in any circumstance in which this chapter requires

1 the installation of an ignition interlock device in all
2 vehicles owned or operated by a person as a condition of the
3 person's license or privilege to operate noncommercial motor
4 vehicles, the department shall require the person to be a
5 participant in and in compliance with a sobriety and drug
6 monitoring program established pursuant to chapter 901D if the
7 person's offense under this chapter qualifies as an eligible
8 offense as defined in section 901D.2, and the person's offense
9 occurred in a participating jurisdiction, as defined in section
10 901D.2. The requirement to participate in and comply with a
11 sobriety and drug monitoring program shall continue for such
12 period as is required under section 901D.7. The department of
13 public safety shall notify the department when the participant
14 has completed participation in the sobriety and drug monitoring
15 program. This subsection shall not apply if the court enters
16 an order finding the person is not required to participate
17 in a sobriety and drug monitoring program. The department,
18 in consultation with the department of public safety, may
19 adopt rules for issuing and accepting a certification of
20 participation in and compliance with a program established
21 pursuant to chapter 901D. This subsection shall be construed
22 and implemented to comply with 23 U.S.C. §164(a), as amended by
23 the federal Fixing America's Surface Transportation Act, Pub.
24 L. No. 114-94, §1414, and shall not apply if such application
25 results in a finding of noncompliance with 23 U.S.C. §164 that
26 results or will result in a reservation or transfer of funds
27 pursuant to 23 U.S.C. §164(b). This subsection shall not
28 authorize the operation of a motor vehicle for any purpose not
29 otherwise authorized by this chapter.>

30 18. Page 22, line 4, by striking <twenty-five> and inserting
31 <thirty>

32 19. Page 22, after line 20 by inserting:

33 <Sec. _____. Section 901D.7, subsection 2, Code 2018, is
34 amended to read as follows:

35 2. An order or directive placing a participant in the

S-5051 (Continued)

1 program shall include the type of testing required to be
2 administered in the program and the length of time that the
3 participant is required to remain in the program. The length
4 of the program shall not be less than ninety days and the order
5 or directive shall include a requirement that the participant
6 not have a failed test result or have missed a required test
7 thirty days prior to the end of participation in the program.
8 The person issuing the order or directive shall send a copy of
9 the order or directive to the law enforcement agency of the
10 participating jurisdiction.>
11 20. By renumbering as necessary.

By DAN DAWSON

S-5051 FILED FEBRUARY 27, 2018

S-5060

- 1 Amend the amendment, S-5051, to Senate File 2382 as follows:
2 1. Page 1, by striking line 27.

By KEVIN KINNEY

S-5060 FILED FEBRUARY 27, 2018

S-5065

- 1 Amend the amendment, S-5051, to Senate File 2382 as follows:
- 2 1. Page 1, by striking lines 30 through 32 and inserting:
- 3 <____. By striking page 15, line 24, through page 17, line
- 4 18.>
- 5 2. By renumbering as necessary.

By ROBERT M. HOGG

S-5065 FILED FEBRUARY 27, 2018

Fiscal Note

Fiscal Services Division



SF 2353 – Employment Services, Workforce Development Department (LSB5281SV)
Analyst: Ron Robinson (515.281.6256) ron.robinson@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2353](#) relates to the membership and duties of the State and local workforce development boards and related responsibilities of the Iowa Department of Workforce Development (IWD). Changes made by the Bill primarily relate to requirements of the federal Workforce Innovation and Opportunity Act (WIOA), Pub. L. No. [113-128](#).

The Bill provides a listing of responsibilities of the IWD, including responsibilities for the development and oversight of industry and sector partnerships, administration of the State list of eligible providers and programs under the WIOA, review of local workforce development plans, and the provision of oversight, guidance, and technical assistance to local workforce development areas.

The Bill takes effect upon enactment.

Background

When Iowa agrees to accept federal funds under the federal WIOA, it agrees to comply with the requirements of the Act. This includes the governance and administrative provisions under the WIOA Title I that this legislation addresses. Iowa must comply with the entirety of the WIOA in exchange for accepting the WIOA funds. Noncompliance with the WIOA jeopardizes the federal WIOA funding of approximately \$13.1 million annually under the WIOA Title I, based on the federal program year 2017 allotment that Iowa received. If the U.S. departments of labor and education elect to address noncompliance with the WIOA during the review process of the required State plan, approximately \$50.0 million in WIOA core program allotments could be implicated, as was the case with the State Workforce Development Board membership structure.

The General Assembly annually appropriates \$5.0 million from the [Skilled Worker and Job Creation Fund](#) for the [Pathways for Academic Career and Employment \(PACE\) Program](#). Community colleges receive \$4.8 million of the total PACE allocation, and may use PACE funds to support the development of sector partnerships and related projects authorized under Iowa Code section [260H.7B](#). In fiscal year 2017, the community colleges expended a combined total of \$15,000 on such costs. The remaining \$200,000 of the \$5.0 million PACE appropriation is allocated to the Department of Education to support and coordinate the activities authorized under Iowa Code section [260H.7B](#). A small fraction of the \$200,000 is used for statewide sector partnership coordinating activities that the Bill transfers to the IWD. Most of the funds are used in support of education and training activities associated with sector partnerships, including career pathway development and PACE-permissible community college activities. This work supports community college and Department activities under numerous sections of State and federal law and will continue to be supported while the IWD develops the statewide industry and sector partnership required by the Bill.

Assumptions

- The IWD is the State administrative agency that has administered the list of eligible providers and programs under the federal Workforce Investment Act of 1998 (WIA), Pub. L. No. [105-220](#), performed oversight of and provided technical assistance to local workforce development boards under the WIA, and reviewed and approved or rejected local workforce development plans under the WIA. The IWD currently has these functions built into its administrative structure and the legislation will not create a fiscal impact with respect to those functions of the agency.
- The local workforce development board provisions will not have an expenditure fiscal impact on State or federal funds for the IWD because oversight and technical assistance for local boards is a function that the IWD performed under the WIA and continues to perform under the WIOA.
- The IWD will require additional staffing to perform statewide industry and sector partnership development for meeting the needs of employers, workers, and job seekers, related to in-demand industry sectors and occupations for the State and local boards. The work will be completed by multiple employees.
- Existing career pathways will be utilized, sector boards/partnerships will continue as is, and intermediaries will be maintained and not charged with additional duties.
- The allocation of PACE Program funding to community colleges to support work with local sector partnerships and career pathway development and the allocation to the Department of Education under the Program remains unchanged.
- The Bill will be effective April 1, 2018.

Fiscal Impact

[Senate File 2353](#) makes it less likely that Iowa will have any future findings or other federal action that could jeopardize Iowa's receipt of federal funding under the federal WIOA, as detailed under Background above.

[Senate File 2353](#) will result in little or no fiscal impact for the Department of Education and the community colleges.

The IWD will utilize Federal WIOA Title I State set-aside funds to provide \$12,500 in salary and benefits for a 0.1 full-time equivalent (FTE) position performing statewide industry and sector partnership development in FY 2018 and \$50,000 and 0.5 FTE position in each subsequent fiscal year.

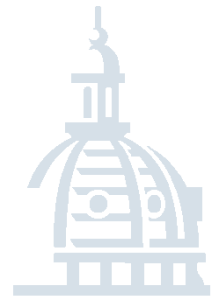
Sources

Iowa Department of Workforce Development
Iowa Department of Education

/s/ Holly M. Lyons

February 27, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



SF 2382 – Criminal Justice Reform – Omnibus (LSB5257SV)

Analysts: Laura Book (515.205.9275) laura.book@legis.iowa.gov

Alice Fulk Wisner (515.281.6764) alice.wisner@legis.iowa.gov

Fiscal Note Version – New

Description

[Senate File 2382](#) relates to criminal law and procedure including certain related administrative proceedings, and provides penalties, and includes effective date provisions.

Division I – Expungements

Description

Division I relates to the expungement of certain misdemeanor offenses. The Division provides that upon the application of a defendant convicted of a misdemeanor, the court shall enter an order expunging the record of such a criminal case, as a matter of law, if the defendant has established the following:

- More than eight years have passed since the date of the conviction,
- The defendant is not the subject of a protective order or a no-contact order,
- The defendant has no pending criminal charges,
- The defendant has not been subsequently convicted of or granted a deferred judgment for a criminal offense, other than a simple misdemeanor under Iowa Code chapter [321](#) or a similar local ordinance, and
- All court costs, fees, fines, and restitution and other financial obligations ordered by the court or assessed by the clerk of the district court have been paid.

The Division enumerates a list of misdemeanor offenses that do not apply. The Division prohibits a person from applying more than once for an expungement of the person's record, unless the application relates to more than one misdemeanor offense that arose from the same transaction or occurrence. After receipt of notice from the clerk of the district court that a record of conviction has been expunged, the record of conviction shall be removed from the criminal history data files maintained by the Department of Public Safety (DPS) if such a record was maintained in the criminal history data files.

The Division applies to misdemeanor convictions that occur prior to, on, or after July 1, 2018.

Background

Under Iowa Code section [907.1](#), "expunged" refers to the court's criminal record with reference to a deferred judgment or any other criminal record that has been segregated in a secure area or database which is exempted from public access.

Assumptions

- There are a few hundred qualifying misdemeanor convictions already on the record that might qualify for expungement pursuant to this Bill, and thousands more are added each year.

- The number of applications to expunge misdemeanors will range from 5,000 to 30,000. It is unknown how many applications for expungement will be received and how many applications will qualify.
- For each application, the clerk's staff will spend 60 minutes searching for information on the criteria to qualify, and three minutes preparing either an order of expungement or notice of rejection to applicant.
- The average cost per hour for clerk of court staff (Judicial Specialist 2) is \$26.
- 80.0% of applicants will qualify for an expungement.
- District Associate Judges will spend three minutes processing each expungement order.
- The hourly rate for a District Associate Judge is \$95.43.
- The cost will be \$32,072 per 1,000 applications for expungement.
- The DPS processing time for each expungement application is approximately 2.5 minutes.

Fiscal Impact

Division I is estimated to have a negative fiscal impact on the operating budget of the Judicial Branch. The Division will increase time spent by the clerk of court staff and District Associate Judges processing expungement applications and orders. It is estimated that the additional time spent on processing expungement requests will range from 5,250 to 31,500 hours, depending on the number of applications. District Associate Judges would spend additional time ranging from 250 to 1,500 hours per year on expungement orders. The estimated additional cost per year for clerk staff and District Associate Judge time is estimated to range from \$160,000 to \$962,000.

Division I may also have a fiscal impact on the DPS. If everyone who is eligible for expungement applied in the first year, it would require over 3,300 hours of labor to remove records of conviction. It is more likely that there would be a gradual increase in the number of applications spread out over several years, with the number of eligible individuals increasing as well. The DPS indicates it would need to study the increase in workload and readdress staffing needs after implementation. Any additional FTE positions would be paid for from criminal history record check revenue, potentially leading to an increase in the fees charged by the Department for record checks.

Division II – Robbery

Description

Division II modifies the criminal offense of robbery in the first degree to include circumstances in which a person commits a robbery with a simulated firearm or simulated explosive. The Division defines a simulated firearm as a device or object that is expressly or impliedly represented to be a firearm and under the circumstances would lead a reasonable person to believe it to be a firearm. The Division also defines a "simulated explosive" as a device or object that is expressly or impliedly represented to be an explosive and under the circumstances would lead a reasonable person to believe it to be an explosive.

The Division provides that a person serving a sentence for a conviction of robbery in the first degree, if that conviction occurs on or after July 1, 2018, shall serve between 50.0% and 70.0% of a 25-year Class B felony sentence prior to being eligible for parole or work release. The Division provides parameters for the sentencing court to determine when the person is first eligible for parole or work release. The Division also provides that a person serving a sentence for a conviction of robbery in the first degree, if that conviction occurs prior to July 1, 2018, shall be denied parole or work release until the person has served between 50.0% to 70.0% of the maximum term of the person's sentence as determined by the Board of Parole.

The Division repeals the offense of robbery in the third degree. A person commits robbery in the third degree when, while perpetrating a robbery, the person commits a simple misdemeanor assault in violation of Iowa Code section [708.2\(6\)](#). Robbery in the third degree is an aggravated misdemeanor.

Background

Currently, a person commits robbery in the first degree when the person purposely inflicts or attempts to inflict serious injury, or is armed with a dangerous weapon. Robbery in the first degree is a Class B felony. Under current law, a person serving a sentence for a conviction of robbery in the first degree is required to serve at least 70.0% of the 25-year maximum Class B felony sentence prior to becoming eligible for parole or work release. A robbery in the second degree is a Class C felony, and aggravated theft is an aggravated misdemeanor or a Class D felony, depending on the circumstances of the crime.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of the first entry of affected offenders into the correction system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day. Additionally, reliable LOS data for county jails is not available.
- Given the definition expansion of robbery in the first degree involving simulated firearms or simulated explosives, the analysis assumes that 50.0% of dismissed or acquitted charges will become convictions under this proposal.
- The repeal of robbery in the third degree will move 50.0% of convictions from robbery in the third degree to robbery in the second degree and 50.0% to aggravated theft.
- The mandatory term before eligibility for parole or work release for those convicted of robbery in the first degree will be halfway between 12.5 years and 25 years (58.3% of sentence).
- In FY 2017, there were 41 convictions of robbery in the first degree. It is assumed there will be seven additional convictions of robbery in the first degree annually.
- Of those convicted of aggravated theft, 46.7% will be sentenced to prison.
- It is assumed that 100.0% of those convicted of robbery in the first degree or robbery in the second degree will be sentenced to prison. The maximum costs for Class B and Class C felonies were used to calculate the total additional costs from each offense.
- Of those convicted of aggravated theft or robbery in the third degree, 47.0% will be sentenced to prison. For the state conviction costs, 47.0% of the new convictions are calculated with the maximum cost and the remaining 53.0% are calculated with the minimum costs.
- The average State cost for one aggravated misdemeanor conviction ranges from \$3,300 to \$6,600. The average State cost for one Class C felony conviction ranges from \$9,000 to \$17,200. The average State cost for one Class B felony conviction ranges from \$12,500 to \$29,600.

Correctional Impact

Division II is estimated to increase convictions for robbery in the first degree by seven convictions annually and increase prison orders by 19 convictions annually. The Division is estimated to decrease probation orders by 16, residential orders by one, and jail orders by 12 annually. **Table 1** shows the estimated additional prison population each year as a result of

Division II. The Division is estimated to increase the prison population by 251 inmates by year 10 of implementation.

Table 1 – Senate File 2382, Division II, Prison Population Increase

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
0	22	52	82	112	142	172	202	232	251

Table 2 shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of Class B felonies, Class C felonies, Class D felonies, and aggravated misdemeanors in crimes involving persons. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

Table 2 – Sentencing Estimates and LOS

	Percent to Prison	Avg LOS Prison (months)	FY 17 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	FY 17 Avg Cost/Day Parole & Probation	Percent to CBC	FY 17 Marginal Cost/Day CBC	Percent to County Jail	Marginal Cost/Day Jail
Class B Felony (Persons)	93.0%	90.2	\$17.52	33.3	9.0%	34.9	\$4.93	4.0%	\$10.56	44.0%	\$50.00
Class C Felony (Persons)	85.0%	38.9	\$17.52	20.1	29.0%	36.7	\$4.93	4.0%	\$10.56	34.0%	\$50.00
Class D Felony (Persons)	77.0%	15.4	\$17.52	10.9	51.0%	29.7	\$4.93	8.0%	\$10.56	25.0%	\$50.00
Aggravated Misd	47.0%	9.0	\$17.52	4.9	70.0%	19.3	\$4.93	4.0%	\$10.56	51.0%	\$50.00

Minority Impact

Division II is estimated to have a minority impact. In FY 2017, 49.0% of the persons convicted in Iowa of robbery in the first, second, or third degree were African American. The U.S. Census estimate as of July 1, 2017, states that the Iowa population was 3.7% African American. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to minorities in the criminal justice system.

Fiscal Impact

Division II is estimated to have a fiscal impact of approximately \$603,000 annually beginning in FY 2020. Under this Division, there would be an estimated seven additional Class B felony convictions and 23 additional Class C felony convictions annually. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the Department of Corrections (DOC). **Table 3** contains estimates for the average State cost per offense class type and the estimated cost increase.

Table 3 – Senate File 2382, Division II, Estimated Costs for Additional Convictions

Offense	Penalty	Cost Range	Net Additional Convictions		Cost Increase Estimate	
			FY 2019	FY 2020	FY 2019	FY 2020
Robbery 1st	Class B Felony	\$12,500 - \$29,600	4	7	\$ 118,400	\$ 207,200
Robbery 2nd	Class C Felony	\$9,000 - \$17,200	12	23	206,400	395,600
Robbery 3rd	Aggravated Misd.	\$3,300 - \$6,600	-12	-24	(58,212)	(116,424)
Aggravated Theft	Aggravated Misd.	\$3,300 - \$6,600	12	24	58,212	116,424
Total			16	30	\$ 324,800	\$ 602,800

Division III – Property Crimes – Value

Description

Division III increases the value of damage or stolen property or services necessary to commit certain levels of numerous criminal offenses. The Division modifies the penalty eligibility for the following offenses:

- Arson in the second degree
- Theft (2nd, 3rd, 4th, 5th degrees)
- Aggravated Theft
- Theft Detection Devices – Shield or Removal
- Fraudulent Practice (2nd, 3rd, 4th, 5th degrees)
- Credit Card Fraud
- Identity Theft
- Criminal Mischief (2nd, 3rd, 4th, 5th degrees)
- Trespass
- Railroad Vandalism (4th, 5th, 6th, 7th degrees)
- Transmission of Unsolicited Bulk Email

Background

Under current law, the following penalties apply to the offenses modified under this Division.

Table 4 – Current Property Crimes Classifications

Penalty	Arson	Theft	Aggravated Theft	Fraudulent Practice	Criminal Mischief	RR Vandalism
Class C Felony	2 nd	1 st				
Class D Felony		2 nd	x	2 nd	2 nd	4 th
Aggravated Misdemeanor	3 rd	3 rd	x	3 rd	3 rd	5 th
Serious Misdemeanor		4 th		4 th	4 th	6 th
Simple Misdemeanor		5 th		5 th	5 th	7 th

In addition, the following penalties apply to offenses modified under this Division:

- Simple Misdemeanor: Theft Detection Devices (if the value is above \$300)
- Serious Misdemeanor: Trespass (if the value is above \$300)
- Aggravated Misdemeanor: Trespass (involving a hate crime)
- Class D Felony: Credit Card Fraud (if the value is \$1,500 and above); Identity Theft (if the value is \$1,500 and above); Unsolicited Bulk Email (if the value is \$1,500 and above)

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of the first entry of affected offenders into the correction system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day. Additionally, reliable LOS data for county jails is not available.

Correctional Impact

Division III increases the value of damage or stolen property or services necessary to commit certain levels of numerous criminal offenses. These modifications would reduce the number of higher-level convictions and increase the number of lower-level convictions. It is difficult to estimate how this Division will affect charging and conviction practice. Due to these unknown factors, this portion of the Bill cannot be assessed for correctional impact.

Minority Impact

The following chart shows the FY 2017 conviction levels for African Americans for the offenses impacted by the Division:

Offense	Percentage African American
Criminal Mischief (all degrees)	18.8%
Trespassing	14.6%
Fraudulent Practice (all degrees)	9.6%
Theft (all degrees)	16.5%
Aggravated Theft	29.4%

Fiscal Impact

Division III is estimated to increase the number of lower-level convictions as a result of the reduction in higher-level convictions. The increase in lower-level convictions could result in decreased overall costs to the State through the Judicial Branch, Indigent Defense, and the DOC. Lower-level convictions may result in a reduction in fines and surcharges paid.

Division IV – Revocation of Driver’s License for Drug-Related Convictions

Description

Division IV strikes Iowa Code section [901.5\(10\)](#), which revokes a defendant’s driver’s license for 180 days if the defendant is sentenced for a controlled substance offense under Iowa Code sections [124.401](#), [124.401A](#), [124.402](#), or [124.403](#). The Division makes conforming changes and provides that a defendant’s driver’s license suspended or revoked pursuant to Iowa Code section [901.5\(10\)](#) prior to the effective date of the Division shall be reinstated if the defendant is otherwise eligible for a driver’s license.

The Division provides a contingent effective date, specifying that the Division takes effect on the date the Governor submits to the United States Secretary of Transportation a written certification that the Governor is opposed to the enforcement in Iowa of a law described in [23 U.S.C. §159\(a\)\(3\)\(A\)](#), and a written certification that the General Assembly has adopted a joint resolution expressing its opposition to the same, in accordance with [23 U.S.C. §159\(a\)\(3\)\(B\)](#).

Background

Federal Revocation Requirements

Under federal law ([23 U.S.C. §159](#)), a state must either:

- 1) Enact and enforce a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception – the revocation or suspension for at least six months, of the driver's license of any individual who is convicted of any violation of the Controlled Substances Act or any drug offense; or
- 2) The Governor of the State submits written certification in opposition to the enforcement of such a law, and the Legislature adopts a resolution expressing the same.

If a state decides to opt out, the resolution is sent to the Federal Highway Administration for certification. If a state does not comply with the above requirements, it will lose an amount equal to 8.0% of the amount required to be apportioned to the state under the National Highway Performance Program and the Surface Transportation Block Grant Program.

The current conforming section is Iowa Code section [901.5](#). Under this Iowa Code section, the Iowa District Court is required to notify and order the DOT to revoke a defendant's driver's license for a period of 180 days if convicted of one of the eligible offenses listed under Iowa Code section [901.5](#).

DOT License Revocations and Reinstatements for Drug Offenses

The DOT charges a \$20 reinstatement fee that must be paid at the time of license reinstatement. There is no civil penalty associated with this type of license revocation. All revenue the DOT generates from fees charged for driver's licenses are deposited into the Statutory Allocations Fund under the control of the DOT. In FY 2017, the DOT issued 4,778 driver's license revocations for drug convictions.

Assumptions

- The General Assembly will pass the required resolution and the Governor will submit the letter to the U.S. Secretary of Transportation in order to be in compliance with federal law.
- Staff processing time for a license revocation is approximately 30 minutes.
- The driver's license reinstatement fee is \$20.
- 25.0% of those with a drug revocation would not have to pay the \$20 fee.

Fiscal Impact

Division IV is estimated to reduce revenue to the Statutory Allocations Fund from driver's license reinstatement fees. It is estimated there will be fewer individuals paying a \$20 driver's license reinstatement fee if the drug revocation provision is eliminated. However, those individuals whose licenses are revoked for a drug offense often have an additional offense that would result in a license revocation. Also, a person revoked or suspended for multiple offenses or who serves back-to-back revocations would not have to pay the \$20 fee. As a result, the reduction in revenue to the Statutory Allocation Fund is estimated to be approximately \$24,000.

Division IV is also estimated to have a positive impact on the DOT operating budget. The removal of the requirement to revoke driver's licenses for a drug conviction will reduce workload for DOT staff. It is estimated there would be some salary savings due to the decrease in processing sanction notices and Temporary Restricted License applications that would offset the lost revenue. It is estimated there would be approximately 2,389 hours of increased FTE capacity statewide, equaling approximately 1.0 FTE position. The corresponding salary savings is approximately \$55,263.

Division V – Theft, Fraud, and Forgery Revisions

Section 37 – Theft Consolidation

Description and Background

Section 37 creates new Iowa Code section 714.2A relating to the consolidation of theft offenses. The Division provides that for purposes of charging a person with theft, any conduct specified as theft in Iowa Code section [714.1](#), subsections 1 through 10, constitutes a single offense. Theft offenses include: taking, misappropriation, theft by deception, possession or receipt of stolen property, fraudulent conversion, check fraud, theft from a public utility, unlawful access to a computer, theft of video rental property, and other similar offenses related to theft.

Correctional and Fiscal Impact

Division V consolidates theft offenses. In FY 2017, there were 10,252 cases involving a theft conviction. Nine of those cases involved more than one theft conviction. The consolidation of theft offenses will likely decrease the number of theft convictions. However, a higher proportion may now receive an increased penalty after being convicted at higher classes due to the consolidation. The extent of this increase cannot be measured, as it is unclear how many of these offenses may be consolidated at time of charging.

Section 38 – Forgery

Description and Background

Division V amends Iowa Code section [715A.2\(2\)](#) relating to forgery. Under the Division, a person commits forgery when the person possesses a writing that is or purports to be a driver's license, nonoperator's identification card, birth certificate, or occupational license or certificate in support of an occupational license issued by a department, agency, board, or commission in this State. By amending the definition of forgery, the Division also changes the circumstances under which an employer is subject to a civil penalty for hiring a person who commits such a forgery, pursuant to Iowa Code section [715A.2A](#). A person who forges a document as described in Division V commits a Class D felony.

Correctional Impact

The correctional impact of section 38 is estimated to be minimal. **Table 5** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors and Class D felonies in crimes involving persons. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

Table 5 – Sentencing Estimates and LOS

Conviction Offense Class	Percent to Prison	FY 17 Avg Length of Stay in Prison (months)	FY 17 Prison Marginal Cost per Day	Avg LOS on Parole (months)	FY 17 Marginal Cost per Day Parole	Percent Sentenced to Probation	Avg Length of Stay on Probation (months)	FY 17 Avg Cost per Day on Probation	Percent Sentenced to CBC	FY 17 Marginal Cost CBC per Day	Percent Sentenced to County Jail	Marginal Cost per Day
Class D Felony (Non-Persons)	74.0%	11.3	\$17.52	13.4	\$4.93	64.0%	31.6	\$4.93	11.0%	\$10.56	26.0%	\$50.00

Fiscal Impact

The fiscal impact of section 38 is estimated to be minimal. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the DOC. The average State cost per offense for non-persons Class D felonies ranges from \$7,900 to \$12,100.

Section 39 – Breach of Fiduciary Obligation

Division V amends Iowa Code section [802.5](#) relating to extending the periods of time for which a person may be prosecuted for any offense involving a material element of fraud or a breach of fiduciary obligation.

Fiscal Impact

Section 39 has no fiscal impact.

Division VI – Criminal Proceedings

Description

Division VI creates a new Iowa Code section 701.12 relating to evidence in a criminal prosecution. The Division modifies various provisions under Iowa Code chapter [814](#) related to appeals from District Court. The Division also modifies post-conviction procedures under Iowa Code chapter [822](#).

Fiscal Impact

Division VI is estimated to result in additional costs to the State Public Defender and the Indigent Defense Fund. It is likely that eliminating appeals from guilty pleas in all but Class A felonies will increase costs. People will be less likely to plead guilty, and an increase in the amount of trials would likely result. The State Public Defender estimates that even if these proceedings represent a minor percentage of the 90.0% of the cases in which pleas are now entered, the cost to the Indigent Defense Fund is likely to be \$1.5 million. In addition, a similar increase is likely to the operating budget of the State Public Defender.

The provision of Division VI that removes the ability to resolve ineffective assistance counsel claims on direct appeal will likely have a fiscal impact on the State Public Defender and Indigent Defense trial and appellate costs. It is estimated that each case would involve a minimum of \$20,000 in additional Indigent Defense trial and appellate costs. In addition, as a result of the modifications made in this Division, it is a possibility that guilty pleas could only be challenged in post-conviction relief proceedings. As a result, an indigent person could potentially have a longer stay in prison, pending review of the person's guilty plea.

Division VII – State and County Medical Examiner Death Reports and Investigations

Description

Division VII provides that the report of an investigation made by the State medical examiner or county medical examiner shall be admissible in court, including any findings of the State medical examiner or county medical examiner and any information provided by a county attorney or law enforcement agency. The Division specifies permissible sources to rely upon in formulating findings. The Division also specifies that in lieu of conducting its own investigation, the Office of the State Medical Examiner may rely exclusively upon the findings of the county medical examiner, the county attorney, or a law enforcement agency.

Fiscal Impact

Division VII has no fiscal impact.

Division VIII – Criminal Penalties

Description

The Division makes changes to several criminal penalties related to possession of a controlled substance, vehicular homicide, and arson in the first degree.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner LOS; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day. Additionally, reliable LOS data for county jails is not available.

Section 52 – Possession of a Controlled Substance

Description

Section 52 decreases the penalty for first offense possession of marijuana under five grams from an offense punishable by imprisonment for not more than six months or by a fine of not more than \$1,000 or both, to a simple misdemeanor punishable by confinement for no more than 30 days or a fine of at least \$65, but not more than \$625, or both.

The section makes convictions for violations in any other state count as a previous offense if the violation in the other state substantially corresponds with possession of controlled substance violations in this State.

Background

Currently, if a person commits a first offense possession of marijuana, the offense is punishable by imprisonment in the county jail for not more than six months or by a fine of not more than \$1,000, or by both. If a person commits a second offense possession of marijuana, the person commits a serious misdemeanor, and if a person commits a third or subsequent offense possession of marijuana, the person commits an aggravated misdemeanor. In FY 2017, there were 3,692 convictions for first offense possession of marijuana.

Assumptions

- 50.0% of the 3,692 convictions for first offense possession of marijuana in FY 2017 involved five grams or less.
- 75.0% of the additional simple misdemeanor first offense possession of marijuana convictions involving five grams or less would utilize the services of a public defender.
- The average State cost per serious misdemeanor is \$343 and the average State cost per simple misdemeanor is \$255.

Correctional Impact

Simple misdemeanor convictions are punishable by confinement of no more than 30 days or a fine of at least \$65 but no more than \$625. This Bill would result in an estimated 923 fewer serious misdemeanor convictions under Iowa Code section [124.401\(5\)](#) in FY 2019. This amount would increase to 1,846 fewer convictions in FY 2020. There would be fewer admissions into jail, prison, and CBC residential facilities, as well as fewer placements on probation and parole.

Table 6 below shows estimates for sentencing to State prison, parole, probation, or CBC residential facilities; LOS under those supervisions; and supervision marginal costs per day for convictions of simple and serious misdemeanors. Refer to the LSA memo addressed to the

General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

Table 6 – Sentencing Estimates and LOS

	Percent to Prison	Avg LOS Prison (months)	FY 17 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	FY 17 Avg Cost/Day Parole & Probation	Percent to CBC	FY 17 Marginal Cost/Day CBC	Percent to County Jail	Avg LOS County Jail (days)	Marginal Cost/Day Jail
Serious Misd (Non-Persons)	2.0%	7.3	\$17.52	N/A	57.0%	13.8	\$4.93	1.0%	\$10.56	72.0%	N/A	\$50.00
Simple Misdemeanor	N/A	N/A	\$17.52	N/A	N/A	N/A	\$4.93	N/A	\$10.56	N/A	N/A	\$50.00

The portion of this Bill section allowing drug convictions from other states to be counted as prior convictions in Iowa is expected to increase the number of higher-level subsequent drug convictions; however, the extent of that increase cannot be measured.

Minority Impact

Section 52 of this Bill would have a positive minority impact to the African-American community. In FY 2017, 19.5% of the persons convicted of first offense marijuana possession were African American. The U.S. Census estimate as of July 1, 2017, states that the Iowa population was 3.7% African American. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to minorities in the criminal justice system.

Fiscal Impact

During FY 2019, it is estimated that there would be 19 fewer admissions to prison, 10 fewer admissions to a CBC residential facility, 434 fewer admissions to jail, and 572 fewer placements on probation. Those numbers would double in FY 2020 and subsequent years. **Table 7** contains estimates for the average State cost per offense class type and the estimated cost savings. Additionally, with considerably fewer jail admissions and shorter LOS, there would be savings to local governments.

Table 7 – Senate File 2382, Section 52, Estimate of Costs

<u>Offense</u>	<u>Cost Range</u>	<u>Conviction Shift</u>		<u>Cost Increase Estimate</u>	
		<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2019</u>	<u>FY 2020</u>
Serious Misdemeanor	\$250 - \$4,900	-923	-1,846	(\$316,600)	(\$633,200)
Simple Misdemeanor	\$30 - \$330	923	1,846	\$235,400	\$470,700
Net Change		0	0	(\$81,200)	(\$162,500)

Section 53 – Vehicular Homicide

Description

Section 53 provides that a person commits a Class C felony when the person unintentionally causes the death of another person when exceeding the speed limit by 25 miles per hour or more, in violation of Iowa Code section [321.285](#), [321.290](#), [321.293](#), or [321.295](#), if the death of the other person directly or indirectly results from such a violation. This new provision does not apply to a member of a public safety agency performing official duties, as defined in Iowa Code section [34.1](#).

Background

Currently, the following penalties are applied to the following offenses:

- A person who violates Iowa Code section [321.285](#) commits a simple misdemeanor or a simple misdemeanor as a scheduled violation under Iowa Code section [805.8A](#).
- A person who violates Iowa Code section [321.290](#) or [321.293](#) commits a simple misdemeanor.
- A person who violates Iowa Code section [321.295](#) commits a simple misdemeanor punishable as a scheduled fine of \$50.

Currently, Iowa Code section [707.6A\(2\)\(a\)](#) states that a person commits a Class C felony when the person unintentionally causes the death of another person by driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, or when they elude or attempt to elude a pursuing law enforcement vehicle. Section 53 would add language that a person commits a Class C felony when the person unintentionally causes the death of another person by exceeding a speed limit by 25 miles per hour or more.

A Class C felony is punishable by imprisonment for no more than 10 years and a fine between \$1,000 and \$10,000. Violations of Iowa Code section [707.6A\(2\)\(a\)](#) are subject to a 70.0% mandatory minimum sentence. Additionally, under Iowa Code section [321.210D](#), a person in violation of Iowa Code section [707.6A](#), subsection 1 or 2, is subject to a driver's license suspension for vehicular homicide for one year.

In calendar years 2016 and 2017, there were 50 accidents resulting in 59 fatalities in which speed was ruled as the causing factor. Of these 50 accidents, there were nine in which the speeding driver was not killed and could face charges. Of those nine accidents, the following occurred:

- Six drivers were charged with vehicular homicide (a Class C felony with a 70.0% mandatory minimum sentence).
- One driver was cited for failure to stop in an assured clear distance (a speeding violation), and received a one-year driver's license suspension.
- One driver was cited for driving between one and five miles over the speed limit, and received a one-year driver's license suspension.
- Charges are pending in the last case.

Persons convicted of Class C felony vehicular homicide are sentenced to prison and serve an average length of stay of 102 months. These individuals would not be placed on probation or sentenced to a CBC residential facility.

Assumptions

An accident resulting in a fatality when the driver was operating a motor vehicle 25 miles per hour or greater over the speed limit is already cited under Iowa Code section [707.6A](#), subsection 1 or 2.

Correctional Impact

There would be no correctional impact from this Division, as it is estimated that there would be no new convictions under Iowa Code section [707.6A](#). Refer to the LSA memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

Minority Impact

There would be no minority impact from this Division, as it is estimated that there would be no new convictions under Iowa Code section [707.6A](#). Refer to the LSA memo addressed to the

General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to minorities in the criminal justice system.

Fiscal Impact

There would be no fiscal impact from this Division, as there would be no additional charges or convictions.

Section 54 – Arson in the First Degree

Description

Section 54 would require an offender who commits the criminal offense of arson in the first degree to serve between 50.0% and 70.0% of a 25-year Class B felony sentence prior to being eligible for parole or work release. The section also provides that the court determine when a person convicted of arson in the first degree can first become eligible for parole or work release within the parameters of 50.0% to 70.0% of the 25-year sentence, based upon all pertinent information. This section applies to convictions of arson in the first degree that occur on or after July 1, 2018.

The Division also makes arson in the first degree a category B sentence under Iowa Code section [903A.2](#), in effect increasing the length of the sentence by reducing the amount of earned time the person is eligible for during confinement from one and two-tenths of a day for each day of good conduct to fifteen eighty-fifths of a day for each day of good conduct.

Background

Under current law, such an offender is sentenced to confinement for 25 years, but is eligible for parole upon entering prison.

Assumptions

- Offenders convicted will serve a mid-point length of stay between 50.0% and 70.0% under this proposal.
- The annual marginal cost of prison per day is equal to the daily marginal cost multiplied by 365 days ($\$17.52 \times 365 = \$6,394.80$).

Correctional Impact

Section 54 will not result in any additional convictions, but will increase the LOS in prison for those convicted of arson in the first degree. In FY 2017, there were eight convictions for arson in the first degree. The projected LOS in prison for those convicted of arson in the first degree is estimated to increase from 26.9 months to 180 months, increasing the length of stay by approximately 13 years. The Division is estimated to increase the prison population by 62 inmates at 10 years from implementation. Refer to the LSA memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

Minority Impact

In FY 2017, 6.2% of arson convictions in the first, second, and third degree in Iowa were committed by African Americans. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to minorities in the criminal justice system.

Fiscal Impact

Section 54 will have a fiscal impact on the operating budget of the DOC due to the increased LOS for offenders convicted of arson in the first degree. The fiscal impact will begin in FY 2021, when those persons convicted on or after July 1, 2018, would have been eligible for release under the prior law. **Table 8** shows the total increase in marginal costs beginning in FY 2021. The Division is estimated to result in additional costs of \$397,000 by FY 2028.

Table 8 – Section 54 Additional Prison Costs per Year

	FY 2019	FY 2020	FY 2021	FY 2021	FY 2022
Additional Population	0	0	6	14	22
Annual Marginal Cost Per Inmate	\$ 6,395	\$ 6,395	\$ 6,395	\$ 6,395	\$ 6,395
Total Additional Cost Per Year	\$ 0	\$ 0	\$ 38,370	\$ 89,530	\$ 140,690

Division IX – Juror Service and Donations

Description

Division IX relates to jurors, including donation of juror compensation or reimbursement, jury manager authority to excuse or defer jurors, and public access to juror information. The Division provides that a juror may donate compensation or reimbursement for juror service to an Iowa Supreme Court-designated State fund or charitable organization.

Fiscal Impact

Division IX does not have a fiscal impact.

Summary

Correctional Impact

Table 9 summarizes the correctional impact of all the Divisions in the Bill.

Table 9 – SF 2382 Correctional Impact Summary

Bill Division	Offense	Penalties	Net Additional Convictions - FY 2019	Net Additional Convictions - FY 2020
II	Robbery 1st	Class B Felony	4	7
	Robbery 2nd	Class C Felony	12	23
	Robbery 3rd	Aggravated Misd.	-12	-24
	Aggravated Theft	Aggravated Misd.	12	24
III	Property Crimes	Various	Correctional impact cannot be determined	Correctional impact cannot be determined
V	Theft and Fraud	Various	Correctional impact cannot be determined	Correctional impact cannot be determined
	Forgery	Class D Felony	Minimal correctional impact	Minimal correctional impact
VIII	Possession of a Controlled Substance	Serious Misd.	-923	-1,846
		Simple Misd.	923	1,846
VIII	Vehicular Homicide	Class C Felony	No expected correctional impact	No expected correctional impact
VIII	Arson in the First Degree*	Class B Felony	No additional convictions, increases length of stay	No additional convictions, increases length of stay

Fiscal Impact

Table 10 summarizes the fiscal impact of all the Divisions in the Bill.

Table 10 – SF 2382 Fiscal Impact Summary

Bill Division	Provision	Fund	Fiscal Impact - FY 2019	Fiscal Impact - FY 2020
I	Expungements	Judicial Branch Operating Budget	\$160,000 - \$962,000	\$160,000 - \$962,000
II	Robbery	Various justice system operating costs	\$325,000	\$603,000
III	Property Crime	Various justice system operating costs	Fiscal impact cannot be determined	Fiscal impact cannot be determined
IV	Revocation of Driver's License for Drug-Related Convictions	Statutory Allocations Fund	(\$24,000)	(\$24,000)
IV	Revocation of Driver's License for Drug-Related Convictions	DOT Operating Budget	\$55,000	\$55,000
V	Theft, Fraud, and Forgery Revisions	Various justice system operating costs	Fiscal impact cannot be determined, but is expected to be minimal	Fiscal impact cannot be determined, but is expected to be minimal
VI	Criminal Proceedings	State Public Defender Operating Budget, Indigent Defense Fund	Full impact unknown	Full impact unknown
VII	State and County Medical Examiner Death Reports and Investigations	DPH Operating Budget	No expected fiscal impact	No expected fiscal impact
VIII	Criminal Penalties - Section 52 Possession of a Controlled Substance	Various justice system operating costs	(\$81,200)	(\$162,500)
VIII	Criminal Penalties - Section 53 Vehicular Homicide	Various justice system operating costs	No expected fiscal impact	No expected fiscal impact
VIII	Criminal Penalties - Section 54 Arson in the First Degree*	Various justice system operating costs	\$0	\$0
IX	Jury Service and Donations	Judicial Branch Operating Costs	No expected fiscal impact	No expected fiscal impact

*Section 54 fiscal impact will not occur until FY 2021, see Division VII for more detail.

Sources

Department of Corrections
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Public Safety
Department of Transportation
Judicial Branch, Office of the State Court Administrator
Office of the State Public Defender
LSA Calculations

/s/ Holly M. Lyons

February 27, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



SF 2383 – Tax System Modification (LSB5452SV)
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Fiscal Note Version – New

Description

Senate File 2383 relates to State and local taxation. The Bill makes changes to Iowa's State individual and corporate income, sales/use, and financial institution taxes. The Bill also makes changes to the local option sales tax, hotel and motel tax, and automobile rental excise tax.

Individual Income Tax Changes for Tax Year (TY) 2018 (Division I) – These changes couple Iowa tax laws with several recent federal changes. The tax coupling relates to the federal Earned Income Tax Credit, teacher expenses, certain business accounting method modifications, and recharacterization of Roth individual retirement account conversions.

Individual Income Tax Changes (Division II) – The following changes are generally effective for tax years beginning on or after January 1, 2019 (TY 2019):

- Changes the starting point for Iowa individual income tax to line 43 of the federal 1040 tax return [form](#) (federal taxable income). This change couples Iowa tax law with federal definitions of income, adjustments, exemptions, and deductions.
- Eliminates the Iowa filing status of married filing jointly on a combined return.
- Eliminates the deduction for federal income taxes paid. A one-year transition calculation is provided.
- Repeals the Iowa alternative minimum tax. A one-year transition calculation is provided.
- Retains the current deductions for military pension income and military active duty pay.
- Retains and raises the general pension exclusion to \$10,000 (single) and \$20,000 (married).
- Retains the current 100.0% exclusion for Social Security income.
- Retains current deductions for contributions to College Savings Iowa educational savings plans ([529 Plans](#)), [Iowa Achieving a Better Life Experience \(ABLE\) Plans](#), [First-Time Homebuyer Savings Accounts](#), and several other less common deductions.
- Creates a new deduction for any income that results from an employer paying a qualified student loan on behalf of an employee.
- Decouples Iowa tax law from a federal tax benefit known as bonus depreciation. Iowa taxpayers will need to add back to income any bonus depreciation claimed on their federal tax return. Taxpayers will still be able to depreciate qualified property without the additional benefit of bonus depreciation.
- Reduces the number of Iowa individual income tax brackets from nine brackets to five.
- Establishes five income tax rates ranging from 5.0% to 6.6% for TY 2019. Iowa's current nine tax rates range from 0.36% to 8.98%.
- Reduces the top tax rate to 6.5% for TY 2020, 6.4% for TY 2021, and 6.3% for TY 2022.
- Indexes (reduces) the five income tax rates annually based on inflation, beginning TY 2023.
- Automatically couples with most future federal tax changes.

Corporate Income Tax (Division II) – The following changes are effective for tax years beginning on or after January 1, 2019 (TY 2019):

- Repeals the alternative minimum tax. A one-year transition calculation is provided.
- Eliminates the deduction for federal income taxes paid. A one-year transition calculation is provided.
- Decouples Iowa tax law from a federal tax benefit known as bonus depreciation. Iowa taxpayers will need to add back to income any bonus depreciation claimed on their federal tax return. Taxpayers will still be able to depreciate qualified property without the additional benefit of bonus depreciation.
- Reduces the number of Iowa corporate income tax brackets from four brackets to two. The change takes effect for TY 2021.
- Lowers corporate income tax rates over several tax years, from the current range of 6.0% to 12.0%, to 5.5% (up to \$250,000) and 7.0% (\$250,000 and above).
- Automatically couples with most future federal tax changes.

Taxation of Financial Institutions (Division IV) – The following changes are effective January 1, 2019 (TY 2019):

- Repeals the State moneys and credits tax. The moneys and credits tax is imposed on State credit unions at a rate that equals 0.5% of “legal and special reserves.” Under current law, moneys and credits tax revenue is split 50.0%/50.0% between the State and local governments (cities and counties).
- Modifies the State franchise tax rate, currently equal to 5.0% of net income, to instead equal 2.0% of the first \$7.5 million of net income and 4.0% of any income above \$7.5 million.
- Applies the modified franchise tax to banks, in-state credit unions, out-of-state credit unions, and agricultural associations that are members of the federal Farm Credit System. Under current law, the franchise tax applies only to banks.

Sales and Use Tax (Division VI) – This Division is effective January 1, 2019; however, changes to definitions are effective July 1, 2018.

- Imposes the 6.0% State sales/use tax on specified digital products, which include electronically transferred digital audio-video products, digital audio works, digital books, and other digital products. The tax applies whether the granted use of the product is permanent or temporary. The tax also applies if the specified digital product is sold as part of a subscription service. Corresponding changes related to specified digital products are made to existing sales/use tax exemptions. The Bill specifies that the change is a clarification of existing law.
- Amends the existing definition of “pay television” under taxable services to include streaming video, video on demand, and pay-per-view. The Bill specifies that the change is a clarification of existing law.
- Changes photography and retouching from a sale of tangible personal property to an enumerated service.
- Adds taxis, driver services, ride-sharing services, and rides for hire as taxable personal transportation services subject to the sales/use tax.
- Adds information services and forms of document storage to the list of enumerated services subject to the sales/use tax.
- Eliminates current sales/use tax exemptions for online computer services and retail sales delivered electronically.
- Exempts the sale of grain bins, and materials used to construct grain bins, from the sales/use tax.

- Replaces 25 sales/use tax exemptions for expenses related to agricultural production with a general sales/use tax exemption for the purchase of tangible personal property that is properly claimed as a business deduction for Iowa income tax purposes and that is used on land eligible for the Agricultural Land Property Tax Credit.
- Amends the definition of the term “manufacturer” for purposes of the manufacturing and equipment sales/use tax exemption to require that a business be primarily engaged in manufacturing in order to qualify for the sales/use tax exemption.
- Amends the sale-for-resale exemption for construction equipment dealers when purchasing construction equipment for lease or rental as long as the purchaser is a party to a qualified dealer agreement.
- Modifies and clarifies requirements for persons to collect and remit State sales/use tax and local option sales tax. Expansion of the definition of “Iowa sales” includes any retailer selling more than \$100,000 worth of products or making more than 200 separate sales into the State, as well as including any “marketplace provider” that facilitates sales in the State.

Tax Credits (Division III) – These changes have a variety of effective dates, specified below:

- Increases the annual maximum allocation of tax credits to the Angel Investor Tax Credit Program from the current \$2.0 million to \$4.0 million. The change is effective July 1, 2018.
- Reduces the maximum amount of tax credits allowed in a year under the Innovation Fund Investment Tax Credit Program by an amount equal to the amount by which the Angel Investor Tax Credit Program exceeds \$2.0 million in that same year. The change is effective July 1, 2018.
- Increases the annual maximum allocation of tax credits to the Workforce Housing Tax Incentive Program from the current \$20.0 million to \$22.0 million, and dedicates the \$2.0 million annual increase to small cities. The change is effective July 1, 2018.
- Establishes an annual \$80.0 million maximum tax credit allocation to the High Quality Jobs Program. The change is effective July 1, 2018.
- Establishes additional restrictions on the types of businesses eligible for participation under the High Quality Jobs Program. The change is effective July 1, 2018.
- Repeals the refundability of the Supplemental Research Activities Tax Credit available under the High Quality Jobs Program. The change is effective for contracts signed on or after July 1, 2018.
- Repeals the High Quality Jobs Program, effective July 1, 2025.
- Increases by two percentage points, to 7.0% and 17.0%, two tax credit rates associated with the Agricultural Assets Transfer Tax Credit Program. The change is effective January 1, 2019.
- Increases the annual maximum amount of tax credits awarded under the Agricultural Assets Transfer Tax Credit Program from the current \$6.0 million to \$8.0 million. The change is effective July 1, 2018.
- Repeals the Accelerated Career Education Program, effective July 1, 2025.
- Extends the Targeted Jobs Withholding Tax Credit Pilot Project one year, to June 30, 2019. The change is effective July 1, 2018.
- Reduces the maximum amount allowed in a year under the Historic Preservation and Cultural and Entertainment District Tax Credit Program from the current level of \$45.0 million to \$35.0 million. The tax credit is repealed effective July 1, 2025.
- Limits the availability of the existing Research Activities Tax Credit Program to businesses engaged in manufacturing, life sciences, software engineering, or the aviation and aerospace industry. The change is effective January 1, 2018.
- Modifies the calculation of the base amount of research expenditures used in calculating the Research Activities Tax Credit. The change is effective retroactively to January 1, 2010.

- Increases the maximum amount allowed in a year under the School Tuition Organization Tax Credit Program from the current level of \$12.0 million to \$13.0 million, and increases the household income limit at which a student is considered eligible for assistance under the Program from the current level of three times, to four times the federal poverty level. The changes are effective January 1, 2019.
- Repeals the Tuition and Textbook Tax Credit, the Volunteer Firefighter and Emergency Medical Services Personnel Tax Credit, and the Reserve Peace Officer Tax Credit, effective January 1, 2022 (TY 2022).
- Repeals the Geothermal Tax Credit, the Geothermal Heat Pump Tax Credit, the Farm to Food Donation Tax Credit, and the Ethanol Promotion Tax Credit, effective January 1, 2019 (TY 2019).
- Repeals the Solar Energy System Tax Credit on July 1, 2018, for installations occurring on or after that date.
- Repeals the Taxpayers Trust Fund Tax Credit, effective FY 2021.

Miscellaneous Provisions

- Requires the Legislative Tax Expenditure Committee to study all available tax credits during the 2018 interim and to submit findings and recommendations to the General Assembly for consideration during the 2019 Legislative Session.
- Conforms the existing Iowa Educational Savings Plan Trust (Iowa 529 Plan) and Iowa ABLE Plan to recent federal changes, including provisions allowing withdrawals from the Iowa 529 Plan for eligible elementary or secondary tuition expenses, and provisions related to the transfer of Iowa 529 Plan assets to an Iowa ABLE Plan. The changes are effective January 1, 2018 (TY 2018).
- Expands the types of persons who must collect and remit the hotel and motel tax.
- Expands the types of persons who must collect and remit the automobile rental tax.
- Repeals an existing exemption from the hotel and motel tax for rooms rented in a memorial union of an Iowa college or university.
- Expands an existing exemption for the rental of rooms at certain religious institutions so that the exemption applies not only to the local option hotel and motel tax, but also to the State hotel and motel tax (5.0% tax rate).
- Modifies and clarifies the term “lodging” for the purposes of the hotel and motel tax to include a cabin, apartment, or residential property within the definition of lodging.

Fiscal Impact Assumptions

Individual Income Tax – Projections are made through the use of the Department of Revenue’s individual income tax micromodel. The micromodel is based on actual Iowa tax returns filed for TY 2016, with data inputs aged for demographic and inflation factors to simulate the projected tax years. The impact of recent changes to the federal tax code has been incorporated into the baseline assumptions of the micromodel. Tax year revenue changes are converted to fiscal years using historical tax payment and tax refund patterns. The following table presents Department of Revenue micromodel estimates of the tax reduction projected for TY 2019 and TY 2023.

Individual Income Tax Revenue Calculation (Dollars in Millions)		
	TY 2019	TY 2023
Current Law	\$ 4,071.5	\$ 4,545.2
Proposed Law	\$ 3,375.0	\$ 3,513.7
\$ Difference	\$ -696.5	\$ -1,031.5
% Difference	-17.1%	-22.7%

Separate from the Department of Revenue assumptions and micromodel results, the Legislative Services Agency estimates that conforming Iowa’s College Savings 529 Plan to recent federal changes will reduce State General Fund revenue by \$0.6 million in FY 2018. This negative fiscal impact is the result of taxpayers contributing additional money to existing College Savings Iowa accounts, and/or creating new accounts, in order to take advantage of the tax deduction allowed when filing tax returns for TY 2017. Iowa law allows contributions made through the filing date of the tax return to be deducted from that year’s taxable income. Federal law changes enacted December 22, 2017, expanded the definition of qualified education expenses under 529 education savings plans. The expansion allows withdrawals for the purpose of paying elementary and secondary school tuition expenses. The projected fiscal impact is based on an assumed \$8.1 million in additional contributions made prior to the TY 2017 filing deadline by taxpayers taking advantage of the additional tax deduction allowed in Division I of this Bill. The fiscal impacts of the provision beyond FY 2018 are assumed to be included within the Department of Revenue’s micromodel results for the future fiscal years.

Corporate Income Tax – Projections are made through the use of the Department of Revenue’s corporation income tax micromodel. The micromodel is based on tax returns filed for tax years 1990 through 2015, with data inputs aged for demographic and inflation factors to simulate the projected tax years. The impact of recent changes to the federal tax code has been incorporated into the baseline assumptions of the micromodel. Tax year revenue changes are converted to fiscal years using historical tax payment and tax refund patterns. The following table presents Department of Revenue micromodel estimates of the tax reduction projected for TY 2019 and TY 2023.

Corporate Income Tax Revenue Calculation (Dollars in Millions)		
	TY 2019	TY 2023
Current Law	\$ 444.3	\$ 504.6
Proposed Law	\$ 386.8	\$ 239.8
\$ Difference	\$ -57.5	\$ -264.8
% Difference	-12.9%	-52.5%

Franchise Tax – The Department used Iowa franchise tax returns filed for TY 2016 to form projections. Iowa law allows financial institutions organized as S corporations or LLCs to utilize tax credits equal to the franchise tax paid at the bank level when filing individual income tax returns that include the bank profits. This credit is known as the Iowa Franchise Tax Credit. Based on historical usage of this tax credit, the Department assumes that any reduction in Iowa franchise tax paid by banks will be offset by an amount equal to 48.5% of the tax reduction, through a reduction in the amount of the Iowa Franchise Tax Credit.

For financial institutions currently subject to the moneys and credits tax (credit unions), the Department used actual moneys and credits tax receipts deposited to the State General Fund (\$736,000 for FY 2017) to form projections. This amount is assumed to represent 50.0% of all moneys and credits tax paid, after tax credits. An amount equal to the State General Fund deposits is also assumed to equal FY 2017 revenue for local governments from the moneys and credits tax. To form a projection of the amount credit unions will pay as franchise tax under the changes in the Bill, the Department used calendar year 2016 credit union annual net income data reported to the Iowa Division of Credit Unions and published by the Division.

Sales/Use Tax – Projections are made using information from the Department of Revenue's [2015 Tax Expenditure Study](#), Census Bureau data, industry specific revenue and sales reports, and remittance reports from Iowa businesses. Fiscal estimates by major provision are summarized in the following table.

Fiscal Impact of Changes to the Sales/Use Tax Base Projected General Fund Revenue Change Compared to Current Law (In Millions)					
	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Digital Goods	\$ 11.8	\$ 26.2	\$ 28.8	\$ 31.1	\$ 33.6
Ride Sharing	3.5	10.8	13.4	15.5	17.8
Subscription Services	9.5	21.8	24.0	25.9	27.9
Online Sellers	10.2	26.4	27.6	28.5	29.5
Online Marketplaces	11.1	24.2	25.2	26.1	27.0
Agriculture Exemptions	-25.4	-52.6	-54.5	-56.5	-58.5
Grain Bins Exemption	-1.1	-2.2	-2.3	-2.4	-2.5
Construction Equipment Dealers	-4.9	-5.1	-5.3	-5.4	-5.6
Manufacturing Definition	7.1	14.8	15.3	15.8	16.4
Online Travel Companies	0.6	1.4	1.4	1.5	1.6
Total Sales/Use Tax at 6.0%	\$ 22.4	\$ 65.7	\$ 73.6	\$ 80.1	\$ 87.2
Transfer to SAVE Fund	\$ -3.6	\$ -10.7	\$ -12.0	\$ -13.1	\$ -14.3
State General Fund Impact	\$ 18.8	\$ 55.0	\$ 61.6	\$ 67.0	\$ 72.9

Tax Credit Changes – Changes to various tax credit programs have implications for individual income, corporate income, franchise, moneys and credits, insurance premium, and sales/use taxes. The projected impacts of changes in a few of the credits are included within the micromodel results cited above. The revenue impacts of changes to the tax credits listed in the following table were estimated by the Department of Revenue outside of the micromodel process and are therefore considered additional fiscal impacts.

Fiscal Impact of Tax Credit Changes on General Fund Revenue Projected General Fund Revenue Change Compared to Current Law (In Millions)						
Tax Credit Program	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Accelerated Career Education Tax Credit	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Agricultural Assets Transfer Tax Credit	0.00	0.00	-0.56	-0.87	-1.02	-1.15
Ethanol Promotion Tax Credit	0.00	0.00	0.18	0.80	0.63	0.04
Farm-to-Food Donation Tax Credit	0.00	0.00	0.01	0.01	0.02	0.02
Geothermal Heat Pump Tax Credit	0.00	0.00	0.00	0.00	0.00	0.00
Geothermal Tax Credit	0.00	0.00	1.62	2.17	2.41	2.52
High Quality Jobs Program	0.00	0.00	0.25	1.42	2.25	3.80
Historic Preservation Tax Credit	0.00	0.00	0.62	2.90	5.46	8.02
Innovation Fund Tax Credit	0.00	0.00	0.00	0.00	0.00	0.00
Qualifying Business Tax Credit	0.00	-1.00	-2.00	-2.00	-2.00	-2.00
Research Activities Tax Credit	1.19	4.63	6.98	7.27	7.54	7.82
Research Activities Tax Credit (Supplemental)	0.00	0.02	1.06	3.48	5.25	6.84
School Tuition Organization Tax Credit	0.00	0.00	-0.71	-0.89	-0.93	-0.94
Solar Energy System Tax Credit	0.00	0.01	1.95	3.12	3.52	1.32
Targeted Jobs Tax Credit	0.00	-0.03	-0.24	-0.24	-0.24	-0.24
Workforce Housing Tax Credit	0.00	-0.87	-1.59	-1.68	-1.73	-1.75
Total	\$ 1.19	\$ 2.76	\$ 7.57	\$ 15.49	\$ 21.16	\$ 24.30

Fiscal Impact Summary

The various impacts of the provisions of the Bill are summarized in the top portion of the following table. With the exception of a small positive impact on FY 2018 revenue, the combined revenue impact is negative for fiscal years through FY 2023, and is expected to remain so for future fiscal years. Several provisions are not fully implemented in FY 2023. The provisions include:

- Elimination of the High Quality Jobs Program and associated tax credits July 1, 2025.
- Elimination of the Accelerated Career Education Program July 1, 2025.
- Elimination of the Historic Preservation and Cultural and Entertainment District Tax Credit July 1, 2025.
- Indexation of individual income tax rates (as opposed to tax brackets) beyond TY 2023.

Compared to current law, elimination of the three tax credit programs will increase State General Fund revenue in years beyond FY 2023, while indexing the tax rates will produce less individual income tax revenue than the current system of indexing tax brackets.

The projected impact on local government tax revenue is summarized in the bottom portion of the table. The first two items are revenue sources for local school districts, while the third and fourth items are revenues of cities and counties.

State and Local Revenue Impact						
Projected Change Compared to Current Law						
(In Millions)						
State General Fund Revenue Impact						
Item	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Individual Income Tax	\$ -0.6	\$ -209.7	\$ -770.8	\$ -901.6	\$ -937.7	\$ -979.4
Corporate Income Tax	0.0	-14.1	-56.3	-103.8	-206.1	-267.4
Franchise Tax (Banks)	0.0	-10.8	-31.3	-32.5	-33.6	-34.8
Franchise Tax Credit	0.0	5.2	15.2	15.7	16.3	16.9
Franchise Tax (Credit Unions)	0.0	0.0	4.4	4.6	4.8	4.9
Moneys and Credits Tax	0.0	0.0	-0.8	-0.8	-0.9	-0.9
Sales/Use Tax	0.0	18.8	55.0	61.6	67.0	72.9
Tax Credit Changes	1.2	2.8	7.6	15.5	21.2	24.3
General Fund Revenue Impact	\$ 0.6	\$ -207.8	\$ -777.0	\$ -941.3	\$ -1,069.0	\$ -1,163.5
Local Government Revenue Impact						
Item	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
School Income Surtax	\$ 0.0	\$ 0.0	\$ -24.7	\$ -31.1	\$ -32.2	\$ -32.6
School Infrastructure (SAVE) Fund	0.0	3.6	10.7	12.0	13.1	14.3
Local Option Sales Tax	0.0	2.9	8.4	9.5	10.3	11.3
Moneys and Credits Tax	0.0	0.0	-0.8	-0.8	-0.9	-0.9
Local Government Revenue Impact	\$ 0.0	\$ 6.5	\$ -6.4	\$ -10.4	\$ -9.7	\$ -7.9

Sources

Iowa Department of Revenue
Iowa Division of Credit Unions
Legislative Services Agency analysis

/s/ Holly M. Lyons

February 27, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
